Thesis submitted for the degree of Ph.D. by

Francis Xavier Walker

September 1961

The Implementation of the Elizabethan Statutes against Recusants 1581-1603

University College London

ABSTRACT

This thesis deals with the formation and the implementation of the penal code against Catholic recusants, from the statute of 1581 to the end of Elizabeth's reign. An introductory survey covers the first decade of the reign and sets the picture for the repeated, but abortive, efforts of the bishops to replace the statute imposing the twelvepenny fine with a more severe law. This struggle lasted through the seventies and is seen as one strand of the fight against recusancy; the other being, the more direct attack on the recusants in the ecclesiastical courts, above all in those of the High Commission, which led to the making of the new law of 1581.

The question of what form that law was to take, its final shape, the £20 fine, and its first faltering steps in the world of assizes and quarter sessions, mark the second stage of the story. The Exchequer receipts testify to the very limited success of the attempt to exact the fine. The effort to rectify so defective a law and the resultant efficiency of that change, namely, the act of 1587, close the analysis of the problem as it was in the middle years of the reign.

A survey of recusancy in the years before 1595 shows the necessity there was for further alteration in the laws. That alteration was never achieved, to any appreciable degree, and the history of the failure to do so, and its effects on the recusant body, dominate the account of the final years of the reign. The reign closed with a penal code acknowledged to be faulty, witness the parliament of 1601, but with no move on the part of the government to remedy the defect.

ACKNOWLEDGEMENTS

I wish to acknowledge the debt I owe to the guidance and encouragement of Professor Joel Hurstfield and to the Tudor Seminar under the direction of Professor J.E. Neale.

CONTENTS

ABBREVIATIONS

A.P.C. Acts of the Privy Council (New Series)

B.D.R. Bristol Diocesan Records

B.M. British Museum

C.R.S. Catholic Record Society Publications

Cal.S.P.D. Calendar of State Papers Domestic

D'Ewes Journals. Simon D'Ewes, Journals of all the Parliaments during the reign of Queen Elizabeth, 1682.

D.N.B. Dictionary of National Biography

Hatfield Cal. Calendar of the Manuscripts of the Most Honourable Marquess of Salisbury, preserved at Hatfield House, 18 vols.

H.C.J. House of Commons Journal

P.R.O. Public Record Office

S.P.12 State Papers Domestic Elizabeth I

W.S.R.O. West Sussex Record Office

Y.C.R. York City Records

Y.H.C. York High Commission

CHAPTER I

THE RECUSANT PROBLEM 1558-70

When Elizabeth, on May 8th 1559, gave her assent to the bill of Uniformity, it was still possible for anyone to choose to avoid the new service, set forth by the statute, and to attend mass where he could find it. On the several Sundays between May 8th and the feast of St. John the Baptist June 24th, such a choice was still not unlawful. Il Schifanoya described the situation in London in those weeks, thus ...

> ... with regard to religion they (the Londoners) live in all respects in the Lutheran fashion, in all the churches of London, except St. Paul's, which still keeps firm in its former state until the day of St. John the Baptist,when the period prescribed by Parliament expires, the Act being in the press and about to appear .... (1)

After that date, what would any Elizabethan have found himself legally bound to do? If he had a clear knowledge of the Act, he would have seen that any future attendance at mass was going to be impossible, except in secret.

What of his obligations towards the new service? Could he choose to absent himself, and stay at home? Or decide to take himself off secretly to a service more to his own liking? The Act allowed of no such alternatives. It not only forbade other forms of worship,but enjoined a positive duty to be present at the established service at

---

(1) H.N. Birt, The Elizabethan Religious Settlement, 1907, p. 505, citing Venetian Papers, No. 77, 30th May, 1559.

certain times.

> ... from and after the said feast of the Nativity of St. John Baptiste next coming, all and every person and persons inhabiting within this realme, or any other the Queen's Majesties dominions, shall diligentlye and faithfully, having no lawfull or reasonable excuse to be absent, endevour themseles to resorte to theire parishe churche or chappell accustomed, or upon reasonable let thereof, to some usuall place wher common prayer and suche service of God shalbe used in such time of lett, upon Sondaye and other days ordained to bee kept as holy days ... (1)

By this law the Elizabethan layman was bound to attend church some fifty-two Sundays and twenty-seven feast days every year. He could only refuse to do so ...

> ... upon payne of punishment or the censures of the churche, and also upon payne that every person so offending shall forfeite for every suche offence twelve pens, to be levied by the churchwardens of the parishe where suche offence shalbe doone, to the use of the poore of the same parishe ... (2)

Hence the cost of not attending would have been 79/- per year, if each absence had been duly fined. The fine was to be collected by the churchwardens of each parish, if necessary, by distraining on the lands, goods and tenements of the offender. It was very much a parish matter; the fine was to be collected locally and used locally.

The Royal Injunctions of 1559 provided in the 46th item for the appointment of three or four discreet men in every parish, who were to see that everyone attended church "... and all such as shall be found

---

(1) I. Elizabeth, c, 2.
(2) I. Elizabeth, c, 2.

slack or negligent in resorting to the church ... they shall straightly call upon them, and after due admonition if they amend not, they shall denounce them to the ordinary."[1] This suggests that the charge of recusancy was to go straight to the ordinary, after a single warning from the parish officials. However the Interpretations of the bishops, 1560-61,[2] Parker's visitation articles for Canterbury 1560,[3] Parkhurst's Interrogatories for Norwich 1561,[4] and Guest's Injunctions for Rochester 1565,[5] support the view that before the churchwardens brought recusancy cases to the bishop's court, they and their helpers first should try to levy the 12d. fine themselves. Only on a refusal to pay the fine was the case then taken to the archidiaconal, or consistory court.

The sequence of events would, therefore, have been as follows: absence from church; visit by the churchwardens to the absentee's house; a warning to come in future; on refusal to do so, the demand for the 12d. fine for the poor box; upon sustained refusal to pay the fine, a report and presentment of the charge to the ecclesiastical court or, less probably, to the assizes; finally, the case to be heard and judgment given. It was a cumbrous way of imposing a 12d. fine. If the recusant paid the fine willingly on demand by the churchwardens, then they were responsible

---

(1) Visitation Articles and Injunctions of the Reformation Period, Alcuin Club Collections. XVI. 1910 ed. W.H. Frere, p.22.
(2) Frere, op.cit., p.61
(3) Frere, op.cit., p.83, Item 12.
(4) Frere, op.cit., p.104, Item 41.
(5) Frere, op.cit., p.160, Item 12. "that the churchwardens, once in the month declare by their curates in bills suscribed with hands to me or my officer under me, who they be that will not readily pay their penalties for not coming to God's Divine Service according to the Statutes."

for its distribution to the poor without further delay. They could, of course, be questioned during an episcopal visitation about their handling of such fines collected from recusants.(1)

If the case went to the assize court, then the only penalty possible was the statutory fine. Procedure, in such courts, was further restricted by a clause in the act, which stated that all cases must be brought to the assize court next after the offence was committed.(2) The bishops were empowered by the act to join with the civil judges to hear and determine in these courts.(3)

Alternatively, if the offence was reported to the bishop to be tried in his own court, then he could impose either the 12d. fine or the 'censures of the church,' whichever he thought would be more feared. The same was true of the archidiaconal courts, which also handled recusancy cases. In view of the restrictions governing a recusancy case in a civil court, it seems probable that the swifter way of dealing with it in a consistory or archidiaconal court would be seized on by the bishops if there was action taken at all. The act by its own wording stressed the point that the execution of this law was primarily the responsibility of the bishops and that they would answer to God for the plagues which would come from its neglect. This was not mere empty phrasing as can be judged from the constant reliance that the Privy Council placed on the bishops in all matters connected with recusancy.

---

(1) T.M.Fallow, "Some Elizabethan Visitations of the churches belonging to the Peculiars of the Dean of York," Y.A.J. 1905. XVIII, pp.212/216. In the account of the visitation of Haiton, the churchwardens said that they had 2/- received from absentees from church, which they had not yet distributed, but they promised to do so shortly. This is the only mention of the 12d. fine in the entire 1570 Visitation, there is none for the 1568 visitation.
(2) I. Elizabeth, c, 2.
(3) I. Elizabeth, c, 2.

Because the bishops were the chief executors of the act, it is necessary to examine, in detail, their powers covered by the phrase 'ecclesiastical censures.' This was their alternative weapon to the 12d. fine. What did it mean with regard to a recusant? Simply that they could excommunicate him. Before any sentence of excommunication could be passed, the accused was examined on oath and on the sworn evidence of a group of his neighbours. "The old system of compurgation remained, and woe betide the poor man who could not procure a conveyance to take his compurgators with him to some court miles away."(1)

The penalty of excommunication was no light one. "It was the compelling force behind presentation, admonition, threat, warning, fine, or penance."(2) There were two degrees of excommunication, the lesser and the greater. The former was the more common penalty. "Excommunication is at this time the pain of contumacy, and hath place where a man appeareth not upon a process, or satisfieth not some order prescribed by the judge, as not taking some oath, or not paying legacies, tithes, ..."(3)

No excommunicate, under the lesser ban, could attend any service, or be married, or stand as god-parent. If he did go to service he had to be expelled before the service could go on.(4) In a way, all these penalties would seem to be just what the recusant would desire; to be forbidden

---

(1) W.P.M.Kennedy, "Elizabethan Episcopal Administration," Alcuin Club Collections, 1924, i, 126.
(2) Kennedy, op.cit., i, 125.
(3) Documentary Annals of the Reformed Church of England 1546-1716, ed. Edward Cardwell. Oxford, 1844, ii, 10.
(4) Kennedy, op.cit., i, 125.

to enter the church he so evidently disliked. His success was illusory. The lesser excommunication had been imposed for absence from church, and the only way to have the ban lifted was to obey the order of the court and go to church, producing at a later date the certificate of attendance. If the recusant did not do so, but persisted in standing excommunicate, then the ban of greater excommunication was entailed. The Canons issued in 1597, for the southern province, set out the procedure in such cases.

> Curent ordinarii locorum, ut tam excommunicati ex eo quod divinis precibus, intra hoc regnum Angliae publica auctoritate stabilitis, interesse pertinaciter recusaverint, quam ii etiam qui propter aliam quamcumque causam legitimam excommunicationis sententia innodati fuerint, nisi intra tres continuos menses post latam excommunicationis sententiam se emendaverint, et absolutionis beneficium obtinuerint, singulis sex mensibus sequentibus, in ecclesia tum parochali tum etiam cathedrali diocesis, in qua habitant, pro excommunicatis publice denuncientur. (1)

With the public denunciation as a recusant under the greater ban, the offender became a social outcast.

> Contact with him, socially or otherwise, brought an automatic sentence of excommunication on those who did so. The defendant in an action with such an excommunicate could plead his condition as a bar to further action. Nor was his evidence court worthy. He was an outcast in life, and in death could not lie in his parish church or expect christian burial. (2)

To have this sentence removed the excommunicate had to pay the requisite fee. The process of absolution was as formal as the original issuing of the ban; the 1597 Canons stated:

> Volumus etiam, sicut contitutum est, eiusmodi excommunicationem per ministrum ecclesiae denunciari, ita ipse iudex de absolutione

---

(1) Synodalia. ed. Edward Cardwell, Oxford, 1842, i, 156.
(2) Kennedy, op.cit., i, 125, citing Burn, Ecclesiastical Law, i, 252.

> ipsius rei post satisfactionem suam peractam, eundem ministrum certiorem faciet qui eandem absolutionem populo denunciabit: ac interim quod bene licebit dicto ministro reum a sacris arcere et repellere, tamquam in ecclesiam minime recipiendum donec eiusmodi certificatorium ab ipso iudice exhibuerit. (1)

Moreover, the fact of standing excommunicate did not, in itself, excuse the person from his duty of attending church as set out in the statute. At least this was the opinion held by Dr. Richard Cosin writing in 1591.

> The last opinion to be handled in this first part, is this: that an excommunicate person standing so above 40 days, may in none other sort be punished than upon writ De Excommunicato Capiendo. This is easily impugned: for he may be punished for absence from divine praier, neither shall his excommunication excuse him, for it is his owne default. Besides it is a great contempt, and punishable also by the Ecclesiastical Commission, by the expresse wordes used in that Acte which doth establish that Commission. (2)

This mention of the ecclesiastical Commission reveals the sting in the tail of the diocesan powers. Beyond the jurisdiction of the ordinary, lay the threat of this local arm of the High Commission. Once brought to the notice of this court the recusant could look forward to a long and wearying process of coercion in which a variety of weapons might be used. He could be summoned at any time to appear before the commissioners; or he could be put under bond to conform to a stated date; or be put in prison at the discretion of the court; or sent to live with some dean or minister to be instructed in the virtue of conformity. It would be a resolute man who would face the prospect of such supervision of his life without weighing the advantages of outward conformity, at least.

---

(1) Synodalia. ed. Cardwell, i, 154.
(2) R. Cosin, An Apologie of and for Sundrie Proceedings by Jurisdiction Ecclesiasticall. 1591, p.64.

Here, perhaps, in the ramifications of the ban of excommunication lay the real force of the Act of Uniformity, as a law against recusants. The twelve penny fine attracts most attention on reading the act, but it probably loomed less large in the daily life of the Elizabethan parishioner than it does in the historian's mind. It was one thing to feel uneasy in conscience about the new service, it was another to take this sense of sin to the test of social, legal, and religious disabilities. The recusant had not only to decide to be absent from church on Sunday; but in that decision, had to run the risk of cutting himself off from the life of his parish, from the marriages of friends, the baptisms of relations, perhaps even his own children, and the burial of neighbours. To decide to obey this law was to risk cutting the innumerable ties that bound him to the only social world he knew. Elizabethan England was an agricultural country of small closely knit communities. "It had its towns ... but primarily it was a land of thousands of villages, seldom containing more than one or two hundred inhabitants and often much less."(1) It is against this background that the law compelling everyone to go to his parish church must be viewed.

What success attended this act, in operation amongst the inhabitants of those thousands of small villages? The problem is not easily solved. Burghley's judgement about the 12d. fine is to be found in a paper written by him some time after the 1581 act had been passed. There he

---

(1) J.E. Neale, Essays in Elizabethan History, 1958, p. 210.

wrote: "The causes that moved the renewing of this law, for that it said the peane being no greater than XIId. no officer did seke to chardg(e) any offender therunto,so that the nombers of evill disposed persons increased therin to offend by the Imprinte."(1) This is very important as a commentary on the state of affairs in the '70s, but it is clear from the rest of the document that Burghley was referring to that period and not earlier; for he mentions the Bull of 1570, and the rising in the North as incitements to the catholic to take such a stand against going to church. It is not sound to read back into an earlier decade of the reign, what was doubtless true later.

The question for those first ten years remains: did people stay away from church without being fined? Or did they, for their absence, pay the full penalty? Contemporary opinion would suggest that neither of these alternatives describes events as they took place. Rather a half-hearted attendance at church was then more common than any outright refusal to conform. People went to church, as commanded by law, but with a definite distaste for the service, which they showed by not receiving communion. This was most clearly expressed in a petition to Cardinal Morone, in 1567, from Thomas Harding and Nicholas Sanders, two marian priests directly concerned with directing people's consciences in this matter.(2) They wanted a clear ruling on the morality of attendance at

---

(1) B.M. Cotton MS. Titus B.III,22,f.65r. A paper in Burghley's hand, not dated but later than 1581.
(2) A.O. Meyer. England and the Catholic Church under Queen Elizabeth,1915. p.475.

service by those still professing to be catholic at heart. Their question arose out of a situation which they explained thus:

> Et antea quidem, propter dissentientes multorum sententias, absolutio iis laicis dabatur qui se abstinuissent a communione hereticorum in sacramentis, etiam si ad ecclesiasticas preces, in schismate celebratas, se contulissent. (1)

In other words, some Marian priests held that it was not sinful for the catholic to go to the parish church for Sunday service, while others held the contrary view, and consequently there was a diversity of practice in giving absolution in confession to the laity in this matter.

The same sort of incident was described in more homely language, in a report on the disorders in Chichester diocese, in 1569.(2) "There be manye in the diocesse of Chichester, whiche bringe to the churche withe them the olde popishe latine prymers, and use to praie upon them all the tyme when the Leassons be a readinge and in the tyme of the letany." Or a variation of this was described in the following way: "Some olde folkes and women there used to have beades in the churches, and those I toke awaye from them but they have some yet at home in theire houses."(3) It was a situation to make the theologian shudder, and the lawyer smile. Whatever the value of such attendance at church, these people were not within the law's scope as recusants.

Bishop Bentham of Coventry and Lichfield tried to reform similar

---

(1) A.O.Meyer, op.cit., p.475. Indeed formerly on account of conflicting opinions, absolution was given to lay people who refrained from going to communion with the heretics, but who yet did join with them in their services.
(2) P.R.O. S.P.12/60/71 f.214r-217v.
(3) It is not clear from this report whether it was the Visitor or the local clergy who stated that they took the beads away.

disorders in his diocese by the following injunction issued in 1565.

> Item we charge and command that every parson, vicar and curate shall with the help of the churchwardens choose in their parish eight six or four at the least of the most substantial and honest men in the parish, who being charged upon their corporal oaths, and having white rods in their hands, shall have authority to see good order kept in the church; they shall first gently admonish them, and if they will not be improved so, then two of the honest men aforesaid shall lead them up unto the chancel door and set them with their faces looking down towards the people for the space of one quarter of an hour. (1)

Double thinking could be carried out on the part of laity and parson alike. Openly the prescribed service was read by the former Marian priest, now conformed, and listened to by his flock. In private the same priest would celebrate mass, and some of his parishioners would receive communion at his hands according to the old rite.

> Yea what is still more marvellous and more sad, sometimes the priest, saying mass at home, for the sake of those catholics whom he knew to be desirous of them, carried about him hosts consecrated according to the rite of the Church, with which he communicated them at the very time in which he was giving other catholics, more careless about the faith, the bread prepared for them according to the heretical rite. (2)

Confusion and mental reservation could hardly go further than this. The account was written after the period described, but refers to the period under discussion, 1560-70.

This picture of drift and half-hearted conformity is confirmed by J.E. Paul's account of Hampshire recusancy in Elizabeth's reign. Writing of the years 1561-70, he draws a similar pattern of attendance at church combined with refusal to receive the communion. From local ecclesiastical

---

(1) Visitation Articles and Injunctions of the Reformation Period, Alcuin Club Collections. XVI. 1910. ed. W.H. Frere, p.168.
(2) Nicholas Sander, Rise and Growth of the Anglican Schism, Cologne, 1585. English translation, 1877, p.267.

records, he has shown that in these years there were 248 citations in the consistory court for not receiving communion, and 55 for not attending church.(1) The first figure gives some idea of the number who were at heart ill affected towards the new service, but who would not carry their distaste of it to the length of staying away completely. In a diocese, that later was to be very recusant indeed, 55 avowed recusants is a significantly low number for a period of nine years. Of course the account is not complete, because as Dr. Paul points out the records of presentments to the archdeacon's court for these years are wanting.

About these non-communicants and recusants, Dr. Paul remarks, "In cases of citation to the Consistory Court for obstinate recusancy or refusal to receive communion the usual punishment at this time was excommunication."(2) He gives five sample cases of people being cited and excommunicated for not receiving communion. The real problem was that of the 'church-papist' rather than the open recusant. In this respect it is enlightening that the visitation articles for Worcester in 1569 specify an enquiry into the annual reception of communion, but make no mention of attendance at church.(3) Though most Visitation articles and injunctions in this period have the usual reference to the levying of the fine and to the reports of the churchwardens about those absent, the inclusion of these questions does not prove that in fact there was

---

(1) J.E. Paul. The Hampshire Recusants in the Reign of Elizabeth I. (University of Southampton. Ph.D. Thesis), p.57.
(2) J.E. Paul, op.cit., p.57.
(3) Visitation Articles and Injunctions of the Reformation Period. Alcuin Club Collections, XVI, 1910. ed. W.H. Frere, p. 223/8.

any special notice taken of them by the visitor. It would, of course, be significant if such references to the 12d. fine had dropped out altogether, or had been elaborated and emphasised in these visitation articles. This was not so.

Neither visitation enquiries, nor routine procedure in the consistory court, exhausted the means which the bishops had for enforcing conformity. An abstract of an examination of fourteen members of the Inns of Court, in 1568, adequately illustrates the place of the Ecclesiastical Commissioners in the machinery of coercion, at this time.(1)

This enquiry ranged over the Inner and Middle Temple, Lincolns Inn, and Grays Inn. Only twenty-two people were involved, and of these, fourteen duly appeared before the Commissioners; the rest absented themselves. There were three questions put to each of these examined, and the precision in their wording leaves us in no doubt that the Commissioners were well aware that they were questioning men with some knowledge of the law.

The first question carefully repeated, word for word, that part of the Act of Uniformity dealing with absence from church. The examined were not only to account for Sundays and Holydays, but to say what church they went to if they did not go to their parish church. The second question went deeper, in that it asked how often they had received the communion since the beginning of the reign, not merely if they had done

---

(1) P.R.O. S.P.12/60. f.202r-204v. The full heading is thus: "An abstract of /the/ Court which have byn lately conventyd before the quenes majesties commissioners appoyntyd to causes ecclesiasticall to gether with the interrogatries wheruppon every of them have ben severally examynyd."

so last Easter. The third question was most dangerous, for they were asked whether they had been to some other kind of service, mass, mattins or evensong in Latin; or been shriven; or been howseld[1] after the popish manner.

The replies to these questions are valuable for the light they throw on the recusant mind in England. Three members of the Inner Temple and one of the Middle Temple described their attendance at church, as going to the Temple church and walking about the Roundell as others did. The old round church was at the far end of the nave from the altar, where the service was conducted. It was an enjoyably remote way of attending common prayer, and perhaps a means of catching up on legal gossip. The reluctance to participate in the service is evident, but also the safeguarding conformity to the letter of the law. The remaining two Temple lawyers pleaded pressure of business for their absence from service.

All six of them had not received communion more than once since the reign began, and then only because pressure had been applied by an ecclesiastical court.

To the third question, two of them denied the right of the court to ask such a question, since there was a penal statute to deal with mass attendance, and they did not wish to incriminate themselves. Three admitted to having offended by going to mass, but not since the first year of the reign. One only denied any offence in this matter.

The Lincolns Inn and Grays Inn members showed a greater degree of

---

(1) i.e. to receive communion.

conformity than their colleagues at the Temple. Out of the eight before the court, all except one affirmed their attendance at church. About communion, six said they received often; one in fact could certify his Easter communions for 1565-8. Of the remainder, one admitted to scruples about receiving, though he had given an unqualified 'yes' to the question of attending church. The last said he had received once only, since the reign began.

Despite this show of obedience to some of the laws, these men were much more unsound when they came to face the question on mass and confession at the hands of a priest. Two retorted with the objection to the court's power to put the question, which was no answer of fact, and left them open to suspicion. Four admitted to offences of this sort, qualifying this by saying that it was long ago, or in the first year of the reign. One of them guardedly said that he had been to mass on the one occasion when he had been caught at it. It was sound pleading, but leaves him highly suspect. Strangely it was those who had been most ready to say that they received the communion in church at the established service, who were most evasive about, or even guilty of, offences of mass hearing.

This account of the trial of fourteen men is too slight to provide any judgement on the Inns of Court in general, but it does reveal a facet of the coercive powers of the Elizabethan church, which the 12d. statute only hinted at. According to that statute, most of these people would have passed for moderately conforming subjects of the Queen. They would

not have paid the 12d. fine under any but the most exacting of churchwardens. Whereas in the hands of the Ecclesiastical Commission, these people were so questioned as to reveal their hidden sympathies and religious beliefs. The demand for certified proof of receiving communion according to the new rite sifted the crypto-catholic from his neighbours better than any other. Above all, it must be noted that the court did not lay a specific charge of any of the offences mentioned, but made a general enquiry, on oath, about the lives of these men over a period of ten years. What an advance on the creaking machinery for extracting 12d. for every proved absence from church!

In its judgement, as in its methods, the Commission was not limited to the statutory fine. What appears to be the result of this enquiry is written on the dorse of the document. Those who had appeared, were to be put out of the Inns of Court, and not be allowed to give counsel to any of the Queen's subjects as common pleaders, nor practice in any court, unless they bound themselves to observe the ecclesiastical laws. They were to produce testimony of this good behaviour from the bishop of London.

Those who had not appeared, were to go before the bishop of London, the date is left blank, and from the bishop bring a certificate of their conformity ... "to the ancientes or els to be ... declared and ajudged no fellows of the houses nor further to p(ractice)."(1) By this means the

---

(1) P.R.O. S.P.12/60/ f.204v.

gentlemen involved were held under future supervision. The usual procedure of the Commissioners was to demand such certificates more than once, until completely satisfied.

Such an action could be enforced only by virtue of the powers of the Commission to demand such bonds and with the power of the Privy Council as an ultimate coercive force. The connection between the two bodies was very close. In fact this account itself was probably drawn up for the information of the Council, and what has been called the judgement in the case, is more correctly described as a suggested judgement from the Council. If the action of such commissioners elsewhere is any guide, then it is certain that the future production of certificates of good behaviour would not be allowed to go by default. The Ecclesiastical Commissioners knew the value of having people under long-term surveillance.

The only change in the law against catholics, in this decade, was the extension in 1565 of the classes of people to whom the oath of allegiance was to be offered. All persons taking holy orders, taking degrees, all schoolmasters, barristers, benchers, attornies and all officers at Common Law or of any court whatever, all escheaters and feodaries, fell within the scope of this act.(1) The pains of Praemunire were to be the penalty for the first refusal, and death for the second. The queen, however, restricted the bishops in the use of this weapon against the catholics, but as Meyer remarks, it must have been a law that pressed heavily on consciences. "The government wanted no

---

(1) 5. Elizabeth, c, 1.

reconciliation with Rome, but rather to oppress or if possible, destroy catholicism."[1]

The act was not concerned with recusancy, but it has a relevance here, in that its operation called on the services of the j tices of the peace, and in 1564, the bishops were asked by the Privy Council to report on their reliability in religious matters.[2] This meant that for the first time in the reign there was some attempt to assess the religious loyalty of this important body of men. Actually, the reports covered a slightly wider body of people than justices of the peace, and dealt generally with local magnates of each diocese.

The bishops were to classify the justices and others, according as they were hostile, indifferent, or favourable, to the government in matters of religion. They were to suggest remedies for any religious disorders they might know of, and advise on those whom it would be well to put into the commission of the peace in place of the disaffected. In their replies the bishops spoke of such disorders as ill disposed cathedral clergy, the open reviling of the new service and the lukewarmness of judges towards the laws regulating religion, but made no direct mention of the problem of people refusing to go to church.

With a wealth of scriptural quotation the bishops did everything, except set down the justices according to the three classes suggested.

---

(1) A.O. Meyer, op.cit., p. 50.
(2) "A Collection of Original Letters from the Bishops to the Privy Council, 1564," ed. M. Bateson (Camden Miscellany ix). For this and other details of the bishops' returns used in this chapter.

As a rough calculation, Miss Bateson offers the following statistics: 451 justices were described favourable to religion, 246 as neuter or indifferent, and 157 as hinderers or adversaries.(1)

In the light of later recusancy problems it will be worth while examining several of these lists in some detail. For Sussex, the return made by bishop William Barlow was drawn up under four heads.(2) Those listed were divided into those on, and not on, the commission of the peace, at this time, and then both these classes were subdivided into those favourable and not favourable to religion. In the West of Sussex, there were five justices favourable, and three not favourable to religion. Of those who were not justices, but possibles for that office, three were listed as favourable and six as unfavourable. East Sussex showed five justices favourable and nine not; of the possibles for future office seven favoured the established religion, and four did not. In the towns of West Sussex, seven justices were unfavourable, those of the East were all favourers, but no number was given. In all, 19 people in public offices were adverse, and 10 were in support of the religious policy of the government. Of those whom the bishop thought he could recommend for inclusion in any future commission of the peace, for reasons of wealth and influence, 10 were rated sound in religion and 10 unsound. Thus in 1564, in Sussex, we have at least 29 people of importance locally whom the bishop judged to be hostile in religion, though to what degree we

---

(1) M. Bateson, op.cit. preface, p.iii.
(2) M. Bateson, op.cit., p.9.

cannot assess.

The Staffordshire report from the bishop of Coventry and Lichfield[1] is much less helpful because of its vagueness. There is a list of 15 justices, with the remark opposite each that they were fit for office. The bishop listed six of this 15 as being "adversaries to religion and no favourers thereof, nether in died nor in woorde." Henry Vernon esq. of Hilton was marked out, with special care, as an adversary of religion. Three others were put in a group as "hurtful to justice and great maintainers." This does not say anything definite about their religious leanings. The three gentlemen, according to the bishop, most suited to be justices and not on the commission were adversaries of religion. Though far from precise this report shows at least ten justices who were not reliable in religion.

The bishop of Chester sent in the report on the state of Lancashire,[2] which in his eye contained only ten men fit to be justices on any future commission of the peace. On the existing commission, four were favourable to religion, and 19 were listed as definitely unfavourable. It was a view of Lancashire in no way surprising, then or later.

In Yorkshire, the archbishop calculated that one justice in the East Riding, six in the North Riding, and 11 in the West Riding were adversaries. The City of York was given a total of 11 hostile justices, which accords well with its later history in recusancy. There was a total of twenty-eight unreliable justices for Yorkshire excluding the

---

(1) M. Bateson, op.cit., Staffordshire report. p.42.
(2) M. Bateson, op.cit., p.77.

archdeaconery of Richmond.

What degree of antipathy to the established services was signified by the description 'unfavourable' is beyond accurate estimation. At least it can be said that counties with a large number of doubtful justices in 1564, were those in which the recusant problem was later to be acute.(1) Later, in 1577, there was an attempt by the government to gain an overall picture of the recusant problem by demanding recusancy returns from the bishops of all the dioceses. It is useful to compare the information of the 1564 report on the justices of the peace with the later survey of the dioceses, thereby seeing how far the one report confirmed the other.(2)

Let us examine the returns for Sussex. Out of the 29 adverse gentlemen in 1564, only two appear in the 1577 list. One name, only, appears in both lists for Staffordshire, and that is not Henry Vernon of such evil repute in the 1564 list. Of the 19 justices unfavourable in Lancashire in the earlier list, six appear in the return for 1577. The comparison of these lists suffers from defects such as lapse of time between them, the widely differing modes of compiling the lists, and the change of bishops in the same diocese, yet the lack of connection between one return and the other forbids any assumption that the disgruntled of the 60's were necessarily going to be the recusants of the next decade.

---

(1) M. Bateson, in her assessment, says that the counties most hostile in 1564 were those which lay in the following dioceses: Carlisle, Durham, Worcester, Hereford, Exeter, and the arch-diocese of York. She makes mention of Staffordshire as distinct from the rest of the Coventry diocese, as being very hostile. However she remarks that on comparison of these lists from the bishops with the lists of J.P.s on the back of the Patent rolls, she finds no sudden dismissal from office of those who were hostile to the state religion.
(2) C.R.S. XII

The problem of the earlier period was nothing so definite as widespread recusancy.

As an example of the confusion in men's minds about the old religion and the new, as it affected their daily lives, we have the report of a visitation of the Chichester diocese for 1569.(1) Bishop Barlow had died on 15th August, 1568, and during the subsequent vacancy of the see, archbishop Parker held a metropolitical visitation of the diocese by a commissary. Thus we have a picture of the state of religion in Sussex right at the end of the years of drift and uncertainty among catholics.

William Overton, treasurer of the diocese of Chichester, had written to Burghley on August 14th, 1568, to suggest that care be taken in the choice of a successor, because of the state of the diocese at that time: "....undique enim apud nos papistarum et papismatis plena fere sunt omnia."(2) The visitation which followed bore out his alarm.

The account of this visitation is contained in two documents, the first entitled "Certificatorium ecclesae Cicistrensis sede vacante, Henrici Barcley custos spiritualitatis," and the second "Disorders in the diocese of Chichester, contrary to thè Quene's majestys injunctions."

The certificate of the cathedral clergy listed 23 clerical office holders and five lay prebendaries. Of the 23 clerics, 12 were non-resident,

---

(1) P.R.O. S.P. 12/60/71.f214r - f215v. This report is together with other clerical statistics for the Province of Canterbury, 1569.
(2) S.P.Dom.12/47/40 cited by H.N. Birt. The Elizabethan Religious Settlement, 1907, p.427, n.i.

and one of the lay prebendaries was noted as being in Italy. Of these cathedral clergy, 11 were marked as not preaching at all, 10 preached often, and 2 rarely. In the seven deaneries of the diocese there were very few preachers, "but onlie seventene as myghte be learned in the Sinodalls."(1) The report noted two black spots, the parish of Boxgrove "therin is neither parson, vicar, nor curate, but a sory reder. Sir Thomas Palmer is the ffarmour of the parsonage as it is thoughte from the Erle of Arundell."(2) This knight, whose influence was hinted at here as unfavourable to religion, appeared in the 1564 report on the justices as a "faint furtherer" of religion; we shall see that in the coming episcopate he was to go further in his opposition to the bishop. Of the deanery of Arundel itself, the sole comment was "there is never a preacher," and the deanery of Pagham was in the same state.

These figures supported the general finding of the visitation, that in many churches there had been "... no sermons not one in seaven yere, and some not one in XII yeres, as the parishes have declared to the preachers, that of late have come thether to preache, as to Mr. Thomas Bluett and to John Ignlden preachers there the last yere."(3) At Battle they were fortunate in having a preacher, but his influence seems to have been very limited. According to this report "...when a preacher dothe come, and speake any thinge agaynst the pope's doctrine, they will not abide, but get

---

(1) P.R.O. S.P.12/60/71 f.215r.
(2) P.R.O. S.P.12/60/71 f.215r.
(3) P.R.O. S.P.12/60/71 f.215r.

them oute of the churche, as theis can wittnes. Mr. Goodall vicar of Mayfeilde, Mr. Coxe, and Mr. Kitson and others."(1) Here is a perfect example of 'church-papists' attending the normal service, but unwilling to listen to any explanation of the new doctrines. Rather they gave ear to someone else: "and the scholemaster is the cause of theire goinge oute which afterwardes, in corners amonge the people dothe gayne saie the preachers of this tyme."(2)

While the schoolmaster of Battle actively encouraged the half-hearted catholics of his town, six beneficed clergy of the deanery of Midhurst played a waiting game, "... There are some beneficed men there which did preach in Quene Maryes dayes, and now do not nor will not, and yet thy kepe theire lyvinges ..." With a clergy of this mind, it is easily understood that in many places there were altars still standing, images hidden away and other popish ornaments for the mass ready to be set up within twenty-four hours: lindefeilde and Battle were cited as examples. "In many places they kepe yit still theire chalices lookinge for to have mass agayne, when as bothe by the bushoppe and others since in office there they were commaunded to turne them into communion cuppes after one fashion ..."(3)

This passive 'looking for to have mass againe,' is typical of the period. It is not a violent, open, or even courageous attitude, but

---

(1) P.R.O. S.P.12/60/71 f.215v.
(2) P.R.O. S.P.12/60/71 f.215v.
(3) P.R.O. S.P.12/60/71 f.215v.

more a sort of self-pitying endurance, sustained by a vague hope in the future. It is paralleled in the report with the account of the way of life of the county gentry. They attempted to keep within the law technically, while easing their consciences with hidden practices.

> Many gentlemen receve the communion at home in theire chappells at Easter tymes and then they chose them oute a preiste for the purpose to mynister unto them there, fetched a good waie of /f/, and do not take theire owne mynister of theire parishe churche, nor receyve three tymes in the yere in theire owne parishe churches, as by the law they shoulde doe, and therfore there is some suspition of false packinge among them in the mynistring of the communion otherwaies then it is in the booke established. (1)

Sir Thomas Palmer was said to have fetched a certain Mr. Smith from ten miles away to do this for him, the Easter before the visitation.

Not all played this double game of outward obedience but, like Mr. Arthur Gunter, of the parish of Racton, in Boxgrove deanery, refused to come to church. He by his attitude and his status ruled the whole parish, which had neither churchwardens, nor clerk, nor even collectors for the poor. This must have been a unique case of completely quashing all the offices which had to do with the levying of the fine for absence from church. However the list of 'Non venientes ad ecclesiam, nec communicantes, is not very long. It comprises at least 19 people, but some of the entries are no more definite than the collective phrase 'the family of.' Of the 12 men named in this list, 5 appeared in the return of the justices, 1564, as unfavourable towards the established religion. The remaining 7, of

---

(1) P.R.O. S.P.12/60/71 f. 215v.
(2) P.R.O. S.P.12/60/71 f. 214v.

the 19, were women who naturally were not concerned in the 1564 report. Even these 19 people did not always make a straightforward refusal to obey the law, for we find 4 of them, along with 3 others, listed as the sort who took themselves out of the county at Eastertime to avoid receiving communion.

Necessarily such a county had its set of priests who would minister in secret to the people who asked for their help. Mr. Stephen Hopkins, bachelor of divinity, gave his services to Lady Poole, Sir Thomas Palmer, and Mr. Gunter; while two others gave their ministry to Mr. Gage and the area around Lewes. Of a fourth such priest, our report can best speak for itself.

> There is one Father Moses sometyme a frier in Chichester and he runneth aboute from one gentleman's house to an other withe newes and letters, beinge moche suspected in religion, and bearinge a popshe-latine prymer about hym withe Dirge and the Letanye, praying to sainctes, and in certen houses he maynteyned the popish purgatory and the prayinge to deade saincts. (1)

His traffic in letters and news is made clear from other information in this report. The parish of Racton was well supplied with "many bookes that were made beyonde the seas." In some places they had Dr. Sander's book "The Rock of the Churche," printed at Louvain in 1567, and the works of a former prebendary of Chichester, Thomas Stapleton of Henfield, by this date at Douay.(2) The latter was kept in funds by four gentlemen

---

(1) P.R.O. S.P.12/60/71 f.217r.
(2) Two of his works were: A Returne of Untruthes. Antwerp, 1566. A Counterblast to Mr. Horne's vane blast against Mr. Feckenham. Louvain, 1567.

named in the report, who held his goods in Sussex and sent him money from there. Three parsons were named as owners of these suspect books. Given that sort of leadership, it was not surprising that the simple folk took their Latin primers to church with them. It only remains for the visitation report to tell us that these same people were reluctant to give up their bell ringing on Sundays and the Feast of All Souls, for the final touch to be added to the picture of Sussex at the end of this decade.

It had its knot of recusants, but the general temper of the people was that of apparent willingness to go to church on Sundays, while clinging to their old beliefs about communion and the more superficial links with the past such as bell ringing. It was not a position that had been thought out, either by their former pastors or by themselves. It was one they had stumbled into, all the time awaiting another change in their favour, and not sensing how far they were drifting towards inner assent. Their problem was not whether to be a recusant or not, but rather how to live without falling foul of the law yet without foregoing their traditional beliefs.

To refuse openly and repeatedly to go to church demanded an attitude of mind which the political and theological climate of these years could not produce. The catholic-inclined Elizabethan was waiting for some event or act of God which would solve the question for him. While he waited, at least up to 1567, he was in a theological no-mans-land on the rightness of going to his parish church. The recusant began to emerge

as a figure in Elizabethan England only when it was clear to him that the Elizabethan church was soundly established and that participation in it was a frank rejection of any other belief. He was, above all, the product of a struggle on religious allegiance, when that allegiance had been stated, on both sides, in terms of daily life. The Act of Uniformity declared what the Elizabethan state thought about adherence to the national church, but the clash was delayed until the view held in Rome was finally and unmistakably pronounced. Despite earlier rulings on the problem, the catholics in England did not adopt the view of uncompromising withdrawal from their parish churches until after 1570, the year of the papal Bull.

Once the practice of absence from church became widespread, the bishops felt that the Act of Uniformity was inadequate to cope with the problem. A restatement of the government's attitude towards the resolute catholic was needed. The bishops' moves to obtain that restatement in the form of a new penal law constitute the second stage in the story of recusancy.

CHAPTER II

THE GENESIS OF THE 1581 STATUTE

The scene of the first overt move towards a harsher penal code for recusants was the opening session of the Parliament of 1571; precisely a decade earlier than that which was to enact such a measure.

The first bill discussed in 1571 dealt with coming to divine service and the reception of communion. It was an attempt to increase the penalties for recusancy, and further to insist on full membership of the established church. Instead of allowing a half-hearted, infrequent, appearance at the parish church to suffice, this bill aimed at a regular quarterly attendance and an annual communion, most probably at Easter time. Failure to communicate, the acid test of conformity, was to be penalised by a fine of 100 marks; non-attendance by a fine, variably reported as 12d, 50/-, £12.(1) It was not exclusively a Puritan bill, but one probably devised by some of the Privy Council, with Burghley's approval and episcopal backing. Here was a formidable body of opinion in favour of a radical change in the laws concerning catholics. That opinion was held by those who possessed executive power. If the bill had become law it would not have lacked willing hands to operate it. The fact is important in assessing even abortive measures of penal legislation.

---

(1) J.E. Neale. Elizabeth I and her Parliament (1953), i. 192. The subsequent account of the Parliaments of '71, '72, '76, has been taken from this work.

The first reading was on May 4th, and the second on May 6th. After this it was committed to a small responsible committee containing no hotheads. When finally it went to the Lords, twenty-nine members escorted it as a sign of its importance. Ultimately the bill was vetoed by the Queen, but of the earlier stages, Professor Neale remarks,

> The trouble taken by the Lords to ensure that the bill should not be lost through any vital disagreement between the two houses is certain proof that a substantial majority in their house ardently desired the law. (1)

In the 1572 Parliament it was the bishops, on their own initiative, who decided to try again. At least a letter to Lord Burghley from the archbishop of York makes that clear.(2)

> My lord, I and some other bishops, accordinge to the order taken by the higher howse, were yesternight with the queen's majestie to move her highnes, that the bill for cominge to divine service might by her assent be propounded.

Presumably the bishops were going to put their case to her personally, for the letter went on to say that they had ...

> the articles of the bill there readye to have reade to her majestie, but for wante of tyme her commaundemente was, that the bill shuld be delivred to your lordshipp, and that at your handes we shold knowe further her pleasure. (3)

This may have been delaying tactics on the Queen's part, nevertheless the archbishop urged Burghley to consider the matter seriously. He pointed out that the bill was not exactly the same as before, but "with some encrease of penalties as maie appere." The reason for his interest

---

(1) J.E. Neale, op.cit., i. 216.
(2) P.R.O. S.P.12/88/7.
(3) P.R.O. S.P.12/88/7.

in the matter was clearly shown in the latter part of this same letter. "The passinge of this bill," he wrote, "will doo verie moche good, especiallie in the North parte, where pecuniarie mulctes are more feared than bodilie emprisonmente." He was troubled by the situation in his diocese and wanted a statute to deal with the recusants. What Burghley did remains unknown, but once again the bill did not become law.

The same bill, "for the coming to church and receiving of the communion," appeared in the first week of the 1576 Parliament.(1) This time the prime mover was archbishop Grindal, newly appointed to the See of Canterbury. It had its first reading on the 15th of February, and its second, on the 15th, and then was committed "to an imposing group"(2) comprising the archbishop of Canterbury, Burghley, Sussex, Bedford, Leicester, the bishops of London, Ely, Chichester and Lincoln, the lords Cobham, Gray, Wentworth and North, justices Monson and Manwood and the Solicitor General.(3) Again the people concerned with the bill prove that no rash proposals were in question.

Despite this, the bill disappeared. Gilbert Talbot writing to the earl and countess of Shrewsbury on February the 20th 1576 remarked, "There is a bill, as I hear, in the higher house, that whosoever will not receive the communion and come to church, shall pay yearly a certain sum of money, the which is not yet come into our house."(4) On March the 3rd, a bill simply for "coming to church" with no mention of receiving communion, was

---

(1) Lord's Journals. i. 731-2.
(2) J.E. Neale, op.cit., i. 349.
(3) Lord's Journals, i. 731-2.
(4) Lodge. Illustrations of British History, ii. 61.

given a first reading, but appears to have gone no further. As with the earlier bills, the Queen most probably intervened, and that was the end of the matter. Parliament was prorogued and the law against recusants stood as before, a 12d fine and no more; yet this series of unsuccessful bills is as instructive for the historian as it was disconcerting for the promoters. From this account of parliamentary manoeuvres against the recusant, four elements appear as significant. First, the increased penalty was always expressed in terms of money. Secondly, attendance at church and reception of communion were linked together as a single test of conformity. Thirdly while not formal government measures, these bills had the support of those men who had the task of administering government from day to day in Elizabethan England. And lastly, among the favourers of these bills, the bishops formed the most persistent group. These features remained part of the Elizabethan recusancy scene henceforward.

The foregoing parliamentary activity receives its full evaluation only when placed alongside the extra parliamentary actions of the bishops and privy councillors. Though halted in Parliament from raising the penalties for recusancy the bishops acted with determination in their dioceses by virtue of ecclesiastical commissions. The Privy Council urged them on in this, while calling for reports on their findings. The Council itself dealt directly with an ever-growing number of recusants.

The first hint of this comes from a reported action of bishop Aylmer, early in his tenure of the diocese of London, 1577.(1)

---

(1) The Troubles of Our Catholic Forefathers, ed. John Morris, London, 1877. iii. 24.

> When Elmer came to be first bishop of London, the only forfeiture being the 12d for Every Sunday, he devised a new law s iritual in his consistory, that catholics should be enjoined to receive [communion] by the next court, then called in, and upon demand answering that they neither had nor would, this he adjudged a contempt and there finable, and so fined one Throgmorton 40 l., Humfrey Cumberforde as much, Roland Bulkelye 20 l., Richard Gravenor twenty marks, and divers other to the sum of 500 l. in one term, and this certified into Exchequer, where afterwards they were enforced to reverse this as done contrary to law, to their great trouble and little less charge than their fines would have been. (1)

This account suggests that Aylmer had stretched the rubric on receiving communion, and his own power as bishop, to the limit, in order to achieve the heavier penalty.

The experiment failed, if the unknown informant is to be believed, but it was a straw in the wind. Was it the forerunner to Aylmer's well known letter to Secretary Walsingham in June 1577?(2) In this letter he proposed the bishops' latest device for winning the Queen over to the programme which she had quashed in Parliament.

This time it was Walsingham who was to advise the bishops and be their agent with the Queen. Aylmer put his case quite bluntly - perhaps recent events accounted for his bitterness. The archbishop of Canterbury and he were alarmed, for they had received news from their brethren, the other bishops, "that the papistes do marvelously increase, both in number, and in obstinate withdrawinge of them selves from the church & service of God."(3) To imprison them was a waste of time and those who were called before the Privy Council for warning and then released, only returned to their counties

---

(1) The Troubles of Our Catholic Forefathers. ed. John Morris. London, 1877 iii. 24.
(2) P.R.O. S.P.12/14/22.
(3) P.R.O. S.P.12/14/22.

and "have drawne great multitudes of their teanants and friends into the like maliciouse obstinacie ..." What was the remedy? Aylmer had a plan which is best outlined in his own words.

> ....with conference had with the rest of our colleags we have thought good to forbeare the imprisonninge of the richer sorte, and to punish them by round fines, to be imposed for contemptuous refusinge of receavinge the communion accordinge to our order and commandments. For if we should directlie punishe them for not cominge to the churche, they have to alleadge that the penaltie beinge alreadie sette downe by statute (which is XIId for every such offence) is not by us to be altered nor agravated. (1)

The proposal was clever, no change in the law was required, no time was to be wasted on long imprisonment, and attendance at church and communion were to be linked together. It had all the advantages of the lost bills of three Parliaments, and the Queen stood to gain more than a thousand pounds a year, if Aylmer's figures were correct.

There were two obstacles to this, of which he was well aware. The Queen's attitude to the proposal, and her manner of seeing it through in practice. This was where Walsingham's influence and tact were required. He was to approach the Queen and present the bishops' policy as being directed against puritan and catholic alike, or otherwise the Queen would not agree. Furthermore he was to warn the Queen against agreeing to the fine and then remitting it in special cases as a favour to courtiers with recusant friends. If the Queen could be brought to whole-hearted support of the scheme, success was theirs; if not, Aylmer was bitterly aware of the results of half measures, "...then our laber will be lost, we shalbe

---

(1) P.R.O. S.P. 12/114/22.

brought into hatred, the enemie shalbe encoraged and all our travaile turned to a mockerie."(1) Walsingham was warned to choose his moment carefully. When he chose it, or how he conducted the affair, is not known, but fortunately there are two documents which tell of the outcome of this scheme.

The first is a letter from the Attorney General to Walsingham, dated December 3rd 1578, more than a year after Aylmer's initial proposals. It is endorsed "The opinion of the Judges and others of His Majesty's lerned councell touching a mulct to be used towardes recusantes to come to the church, with the opinions of the doctors of the civell lawe."(2) From the text it is clear that Walsingham had written to the Lord Keeper and Lord Treasurer to request them to obtain the opinion of the judges on what might be done for fining recusants within the existing laws. "All the judges & others of his majesties lerned counsell that were in London ..." gave their opinion. They agreed that by the statute of supremacy all ecclesiastical jurisdiction and authority lay with the Queen and she could give it to any commissioners.

In an enclosure, sant with the letter, Dr. Lewes and Dr. Hammond then laid down what could be done by such commissioners. "The bishop and none [no] other inferior jud e maye by the ecclesiasticall lawe, punish any person ecclesiasticall or laye, by pecuniary paine for any ecclesiasticall cryme or offence, specially if he shall perceve the same pains to be more feared then the censure of the church."(3) Did recusancy come within

---

(1) P.R.O. S.P.12/144/22.
(2) B.M. Lansdowne MS. 27/25. f.47v.
(3) B.M. Lansdowne MS. 27/25. f.47r.

such a ruling? The judges clearly stated that it did. "And it is certein that by the same lawe the ordinarie may punish by pecuniarie payne such as abstein from going to the church to heare devyne service, without reasonable cause of excuse, specially if it be of contempt."(1) They added a further opinion to the effect that a bishop could make a statute or ordinance by which anyone excommunicate should pay £10 for every month he remained contemptuously excommunicate. This was useful because one of the existing censures of the church for recusancy was excommunication. These judgements endorsed Aylmer's ideas for fining recusants and they gave him and his fellow bishops a power beyond that of the 12d. fine.

Did such an opinion remain legal theory, or was it put into practice? A later document points to the use of this opinion in the courts of the High Commission. A copy of this legal ruling, with a covering letter, was sent by the Privy Council to the chief Ecclesiastical Commissioners in the north, on July 3rd 1580.(2) The covering letter put the case more clearly than before.

> The Queen's majestie (havinge bene oft informed, that divers of her subjects not regardinge the small penaltie which the Statutes made in her highness time do levy u on them, for not resorting to the church to divine service on the holie daies) hath caused the Judges and her learned counsell, together with some well learned civilians, to consider and sett down in writinge under there hands the/ir/ opinions how, by the Cannon and Common Lawes, a greater penaltie might lawfullie be sett upon wilfull and usuall recusants, that come not to the churche

(1) B.M. Lansdowne MS. 27/25. f.47r.
(2) Desiderata Curiosa. ed.F. Peck. London, 1732. I.iii. p.11. No.12.

> at all. Which being donne and allowed by her Majesty, her Highness pleasure is to have it executed throughout the realme. (1)

The Council's letter went on to urge immediate application of this ruling telling the recipients specifically that their existing ecclesiastical commission, for the Province of York as well as for the diocese of Chester, gave them full power to put this ruling into effect. There was no need of further powers or a new commission. Fines were to be levied on lands and goods,or on the person's body (imprisonment) where there were neither lands nor goods.

This letter gave a clear order about what was to be done: the most likely court in which such a case would appear, was the northern High Commission court at York, because it was primarily to the members of that court that this order was sent. A search among the Act Books of the High Commission(2) for this period reveals a vast amount of recusant material among which there are some examples of this ruling from the Privy Council being enforced. It will be necessary to examine the role of the High Commission in detail later in this chapter, for the moment only the evidence relevant to this point of large fines will be cited.

There is an entry in the High Commission act book for October 3rd 1580(3) which gives the names of seven men who were all prisoners at Hull. It states that they had been imprisoned by this court(4) and had appeared

---

(1) Desiderata Curiosa. ed. F.Peck. London, 1732. I. iii. p.11. No.12.
(2) York High Commission Records. 1575-80
(3) Y.H.C. R.VII.A.10.f.46r.
(4) No date is given for the commencement of their imprisonment.

before the ecclesiastical commissioners at a session of the same court held at Beverley on August 1st 1580. On that occasion they were given a long exhortation to conform and attend church in Hull before August 27th. Their keepers were to take them to church and the mayor of Hull was to certify that they had been present at the service. This certificate was to be returned to the court at York on October 3rd.

The certificate was returned, so the court record tells us, but to the effect that all concerned had wilfully and obstinately refused to go to church as commanded.

> Whereuppon the said Commissioners unanimo consensu imposed and set fynes upon the said persons named and every of them as is set down; upon there heades to be levied of every there lands goods and tenements to the Quenes Majestie's use. (1)

The list reads as follows: Roger Tocketts esquire £100; William Lacye gentleman, £50; Edward Teshe gentleman £50; John Mallet gentleman, £50; William Justice £40; Christopher Monkton esquire 100 marks; Guye Jacksons £50.

From the sums mentioned it can be seen that the Commissioners had certainly used their powers to the full. The statutory fine was but 12d, a mere nothing when placed beside these fines. However no other cases are recorded in these years 1577-80 of a similar kind. The commissioners, Dr. Cross considers, preferred to use prison as a means of coercion rather than fines; though she does cite the case of William Ardington who was fined 100 marks for his recusancy in 1574.(2) This is the more

---

(1) Y.H.C. R.VII.A.10.f46.r.
(2) M.C. Cross. "The Career of Henry Hastings Third Earl of Huntingdon, 1536-1595" (University of Cambridge Ph.D. Thesis), p.142, citing Y.H.C. R.VII.A.8.f.27r.

interesting as it predates the privy council instruction and the judge's opinion on this question, which was not given until 1578.(1)

Though slight, the evidence from York shows that Aylmer's idea did bear fruit. How frequently and to what effect it was used by the ecclesiastical commissions in the south of England remains unknown in default of any record. Yet it is unlikely that Aylmer himself did not use the weapon he had so long planned to handle.

Such was the outcome of one line of action on the bishops' part in the late seventies; by no means their only answer to the growing recusant problem. Parallel to this policy of having the money penalty increased, was their close cooperation with the Privy Council in using powers already to hand, with increasing thoroughness. In July 1577 Walsingham, on behalf of the Privy Council, had summoned a meeting of the bishops in London to examine "How such as are backward and corrupt in religion maie be reduced to conformity and others stayed from like corruption."(2) Conyers Read sees a letter to the bishop of Lincoln in the same month as one of the letters summoning the conference and listing the matters to be raised.(3) The results of the conference were drawn up as a series of resolutions, preserved in Walsingham's letter book. Thus without having an actual account of the conference we can know what policy was debated.

A general attempt to bring the recusant to obey the laws was its aim. The resolutions, because of their importance for the whole of the period 1577-81, are worth giving in full.(4)

---

(1) B.M. Lansdowne MS. 27/25. f.46v.
(2) P.R.O. S.P. 12/45/10.
(3) Conyers Read. Mr. Secretary Walsingham. Oxford, 1925. ii. 280.
(4) P.R.O. S.P. 12/45/10

> For the reducinge to conformitie of such as are corrupte in religion, and refuse to yeild obedience to the lawes of the realme provided in that behallfe and the stayinge of others from fallinge into like corruption, three thinges principally are to be putte in execution.
>
> The first in takinge order generallie with such as are recusantes as that they may be brought to obay the lawes.
>
> The second in providinge either by banishment or restraint that Watson, Fecknam and the rest upon whose advice & consciences the said recusantes may depend, maie doe no harme.
>
> The third for the stayinge of others from corruption, that generall order be taken throughout the realme for the examininge & removinge of corrupted schoolemasters.
>
> Touchinge the takinge order with the recusantes.
>
> First it shall be convenient that letters be sent to the bishops and others well affected in each dioces to make enquierie by such meanes as by them shall be thought meete after such as refuse to come to church especiallie such as are of countenance & qualitie, and doe offende in example.
>
> Secondlie to take sett order that the said persons so offendinge maie be conferred withall by the space of ... monethes by men sufficientlie learned after a charitable sorte.
>
> Thirdlie that not takinge effect, then to proceed by degrees with the obstinate. (1)

This was to be done by restraining the obstinate in some sort of custody and while in restraint to hold conference with them; then by punishing them with a 'mulct' or fine (this is Aylmer's policy as part of a larger scheme) and lastly by offering them the oath of Supremacy according to the laws of the realm. The conference noted that because "the number of the recusantes is so great as the places of restrainte are not able to hould them yt maie be thought expedient that the

---

(1) P.R.O. S.P.12/45/10.

recusantes of such diocesse as are most corrupte, be first dealt withall, and in the said diocesse the principall persons such as by law are to be reached unto."(1) To stop others from future corruption the bishops were charged with examining all school masters on their soundness in religion. The old leaders of catholic opinion, such as Dr. Watson, Dr. Feckenham, Dr. Harpesfielde and Dr. Younge, were to be put in close custody and kept from influencing others. Lastly a known hotbed of disaffection, the Inns of Court, was to be dealt with immediately. So they resolved, and in resolving give us a clear picture of how serious the situation was by the Summer of 1577. Statute or no statute, something had to be done to stem the mounting tide of recusancy.

The first step was a letter from the Privy Council ordering all the bishops to send back to the Council, on a certificate,

> ....with all the diligence you maie, as well the names of all persons within your diocesse that refuse to come to the church to hear devine service as also the valewe of their landes and goodes as you think they are in deed and not as they be valewed in the subsidye booke. (2)

Each bishop was given the names of several justices of the peace, in the various counties within his diocese; these the Council recommended as helpers in drawing up the certificate. A skeleton list of people, already known to be recusants, was sent out with these instructions. This was to be enlarged by local knowledge, and a completed list sent back within seven days. No time was to be lost and there was to be no respecting of persons or rank.

---

(1) P.R.O. S.P.12/45/10.
(2) P.R.O. S.P.12/116/15. A draft of the letter to be sent out, blanks left for proper names of persons and places.

Among the Yelverton papers there is a copy of a letter referring to this episcopal enquiry giving details of what the bishops were to do.[1] The bishops were to supply their helpers with a list of known recusants; these were to be examined to discover if they still persisted in their recusancy; anyone else locally suspected or known not to go to church was to be examined and the final list of proved recusants was to be returned to the bishop. He then was to make a return for the whole diocese. For example the Archbishop of Canterbury was to make a return for Kent, helped by Sir Thomas Scott and Thomas Wotton. The Bishop of Chichester was responsible for Sussex with the assistance of Sir Thomas Shirley and Sir John Popham. In all, eighty-nine people were named to assist the bishops in their task.

It was a widespread enquiry and obviously part of government policy, though the bishops addressed their replies personally to Sir Francis Walsingham. The replies were highly varied, according as the bishops knew their dioceses or not, or had recently made a visitation, or were personally eager to promote the search. Most of them would have agreed with the archbishop of York when he wrote saying that he had worked in haste to complete the lists, but they were far from perfect.[2]

Nevertheless from Yorkshire and Nottinghamshire, a list of 176 names was returned, but this was little enough considering the fact that of that 176, there were 51 in prison either in York or Hull, and a further

---

(1) B.M. Yelverton MS. 48018/19/f.164r
(2) P.R.O. S.P.12/117/23.

42 were certified for the City of York, leaving only 103 from the remainder of both counties.

The bishop of Worcester did his part but was sceptical of the accuracy of his returns, and rightly maintained that no one could say what another man was worth.(1) The bishop of Lincoln, Thomas Cowper, claimed to know only four recusants in the counties of Bedford, Huntingdon, Leicester and Lincoln. He added by way of explanation: "My Diocese is long; it cannot be but there are some lurkers unknowen to me, whom I trust this your honorable care will bring to lighte";(2) Mr. Lewis Dive, one of his helpers in Bedford wrote separately to the Council to supply nine names.(3) Mr. Francis Hastings and Mr. Adrian Stokes reported from Leicester that they needed more time to draw up such a list.

In every respect it was a very mixed bag of certificates which sooner or later reached Walsingham in London. Certainly the list was in no sense an accurate census of the recusant population, as the covering letters prove; nor yet was it a list of the leading or wealthy recusants alone. Among those certified was one nobleman, the Earl of Southampton, 10 knights, 30 ladies, 102 esquires, 399 gentlemen, 56 priests, while the remaining 984 ranged from yeomen to servants. The Inns of Court, which were returned separately, showed 201 recusants, thereby supporting the Council's suspicion that they were centres of disaffection in religion. A total

---

(1) P.R.O. S.P.15/118/11, printed in C.R.S. XXII, pp. 65-66.
(2) P.R.O. S.P.12/117/15. printed in C.R.S.XXII, p.53.
(3) P.R.O. S.P.12/118/50. printed in C.R.S.XXII, p.55-54.

of 1562 names was returned by December 30th 1577 and a summary was made for the enlightenment of the Council.

Yorkshire appeared as the most recusant county with 168 names, Stafford was next with 114, and London third with 99. All the other counties had returned totals of less than 50 with the exception of Hampshire and Oxford town, they returned 58 and 50 respectively. It is doubtful if the Council regarded this report in a strictly statistical way. Rather it was an improvement on what lists they had already and provided a working basis for any future action against the recusants. In the policy decided at the conference in July 1577 the collection of names was no more than a step preliminary to examining and persuading the recusants to change their ways.

No single authority undertook this task, some were called directly before the Council, some before the High Commission, some before the local bishop. Not every one named on the lists sent in by the bishops was examined, but those lists did form a basis for government action. An undated document in the Harleian MSS refers to the Privy Council's part in this policy.(1) It is headed "A note of the appearances of such recusants as have ben sent for upp by their lordships letters and bounde by the commissioners to appeare."(2) There were 107 people dealt with on this list, drawn from 23 counties. The northern counties Lancashire, Yorkshire, Cumberland, Westmoreland and Durham were excluded.

---

(1) B.M. Harleian MS. 360. f.1r-4v.
(2) B.M. Harleian MS. 360. f.1r.

It is impossible to compare the names of this Privy Council list with the bishops' returns from their dioceses. For example, the names sent in by the bishop of Chichester numbered 22, on the Council list 6 of these occur, two of whom were Shelleys, two Gages, one an Ashburnham and one Michael Greene. For Stafford the bishop of Coventry and Lichfield had sent in 144 names, 9 only of these featured in the Council list, all of them members of leading Staffordshire families, Draycotts, Wolseleys, Giffords, Ereswicks and Maxfields. In general the Council had called before them approximately the leading 10% of the general body certified by the bishops. The policy of dealing first with the principal recusants was here clearly adhered to.

When these recusants appeared before the Council they were either persuaded to conform, or restrained for a short time in a London prison if they proved unwilling and then released on bond. The bond was usually taken out before the High Commission and enjoined conformity within a stated length of time.

At the end of July, ~~1580~~ 1580 lists of prisoners who were in the London prisons, for ecclesiastical offences, were drawn up to inform the Council of what had been done.(1) These lists cover the years 1577-1580. They showed which people had been committed, what had happened to them and how many still remained in prison, at the date of compiling the lists. Six prisons only are represented in these lists; those for Newgate, the

---

(1) C.R.S. I, pp.61-72. "List of prisoners for ecclesiastical causes," ed. J.H. Pollen. Originals: P.R.O. S.P.12/140/36, 37, 38, 39, 40; S.P.12/14

Fleet, the Clink and the Counter in Southwark are missing. The six lists give a total of 167 names. However, the names on these lists do not coincide with the Harleian list which was 10% of the original bishops' returns. The prison lists embraced a wider group of people. They were not all in prison for recusancy but some for hearing mass, or distributing books, some were priests. In other words there is no direct chain of evidence which links all the prisoners of the years 1577-80 with the group selected by the Privy Council for interview and persuasion; but there is sufficient overlapping of these groups to support the view that imprisonment was the government's final mode of persuasion with recusants.

Another list, entitled "1597. A Catalogue of the papists imprisoned"(1 runs to 119 names. It is a list of people in prison in 1579 and thus covers some of the people mentioned in the separate prison lists for the period 1577-80. Like them it is not purely a recusant list; 29 priests figure in it. What is important is that it includes figures for other than London prisons. In the jail at Northampton there was one priest, at York, two priests, four lay people; at Hull five priests and ten lay people; at Hexham one layman; at Hereford two priests and two laymen; in Cornwall nine laymen. These figures are small but they suggest that the same policy was being followed throughout the country.

Originally at the July 1577 conference with the Bishops, Walsingham

---

(1) C.R.S. I. p.63.

and Burghley had devised a general plan for the imprisonment of the leading recusants throughout each county.(1) A list of ten castles with the names of their future keepers and superintendents was drawn up and several counties were allocated to each as a catchment area. The bisho s were to name those whom they thought should be imprisoned. This plan in its original elaborate form was not put into effect; but the evidence from the London prisons shows that it was not entirely abandoned. The Privy Council, the High Commission and the bishops believed in the usefulness of a taste of imprisonment to bring a recusant to outward conformity.

Evidence, in greater detail, from several counties, corroborates the story which the central records have built up. The Diocesan records at Chichester provide the material for the Sussex scene; several Cottonian papers show the Council at grips with recusant Norfolk and Suffolk. Lambeth Palace records give a glimpse of what was being done in the Diocese of Worcester; while the abundance of material at York presents in detail the work of the High Commission in the North East.

Sussex: The Bishop of Chichester had made his certificate of recusants in October 1577 along with his fellow bishops; in it he set down 22

---

(1) Conyers Read, op.cit., ii. 282, n.2.& B.M. Harleian MSS. 560. f.65.

names of people not coming to church.(1) It was a restricted group, largely gentry and drawn from West Sussex. It was in no way an attempt to name all the recusants of Sussex, rather it appears to be a list of recusants known to the bishop personally, who he could not pretend were other than recusants and whose names would satisfy the council of his compliance with their demand.

The incompleteness of this list is shown on examination of the presentments for absence from church during the episcopal visitation in

---

P.R.O.
(1) S.P. 12/117/15, in C.R.S. XXI, pp. 80-81.

i Mr. John Gadge of Ferells esquire - son and heir of Sir Edward Gage of Firle. Knight.
ii Mr. Edward Gadge of Bentley esquire - son and heir of James Gage of Bentley.
iii The Lady Gage of Akiston - widow of Sir Edward Gage of Firle kn.
iv Mr. Thomas Gage - brother of John Gadge (i)
v Mr. William Scotte of Iden esquire.
vi Mr. Thomas Ashburnham of Ashburnham gent - son of John Ashburnham of Ashburnham.
vii Mr. Richard Shelley of Warminghurste.
viii Mr. George Chute of Framfield.
ix Robert Southwood yoman.
x Tarry late of Batle. scolemaster.
xi Mr. John Carrell of Warnam esquier.
xii Mr. Edward Carrell of Shapley esquier.
xiii The Lady Gylforde of Clopham.
xiv Mr. William Shelley of Mochelgrove esquier.
xv Mr. Gunter of Racton.
xvi Mr. Byckley of Chyddam gent.
xvii Mr. Geffrey Poole esquier.
xviii Mr. Nicholas Tycheborne of Dureforde gent.
xix Mr. Joh Gefford of Stansteede Lodge gent.
xx Mr. Edwarde Coverte of Twynam gent.
xxi Mr. John Bysse gent.
xxii Mr. Hare of Sheppley.

1579, two years later. The churchwardens presentments cover the Archdeaconery of Chichester, or West Sussex.(1) Thus they form a survey of recusancy for that same area for which Curtys in 1577 had submitted the 22 names to the council.

The presentments are divided into five deanries, Boxgrove, Midhurst, Arundel, Harrington and Chichester city, and within each deanry the answers to the visitation articles are listed, parish by parish. Among other matters the churchwardens and the ministers were questioned on attendance at church and reception of communion. Some replied to the questions in great detail, some with the vaguest of assurances. Boxgrove Deanry is listed first and some examples from its returns will show the variety of replies.(2) At Upmarden the churchwardens maintained that everyone attended service and received communion; the vicar supported this view but made an exception of Thomas Lewknor J.P., who came infrequantly to church, though he had received communion recently. The vicar of Westborne said that he knew of no one who of set purpose stayed away from church except one woman, Elizabeth Carlyon.

The vicar of Eartham, however, had a detailed list of people who absented themselves, with the dates of their offences. For nine separate occasions he presented groups of four or five people, in all nine people were involved. He also presented the churchwardens for not levying the

---

(1) W.S.R.O. E.1/25/5. Churchwardens Presentments 1579.
(2) W.S.R.O. E.1/24/5 ff 2v-19r.

forfeiture of 12d. Eartham was clearly in need of reform. Not so was Northmindam where everyone received at Eastertime and would have done so again only there was a dispute about who was warden and consequently there was no bread and wine. Binderton had its communion twice in the year and all except three people received. Those parishes which reported the reception of communion favourably made no reference to absentees from service; the performance of the lesser duty was assumed by the greater. Chidlam and Singleton said all was well; but at Eastdene though the churchwardens made no presentments, the vicar reported that no forfeiture was levied on those absent from service, moreover the village had an unlicensed schoolmaster and midwife - a suspicious combination. Mistress Ryman attended her church at Ovinge but used uncomely reading during the services.

Thus the tale of defection or attendance was told parish by parish. Few were accused of obstinate refusal to come to church because of publicly avowed catholic sympathies. That was not the nature of the presentments. The churchwardens were mostly content to say who came or not without further comment. In this way the obstinate recusant was listed side by side with the man who stayed in an alehouse on Whit Sunday, or with the man who was dragging his field on the feast of the Annunciation and thus lost his evening prayer. Geffrey Poole, who featured in Bishop Curtys' list for the Council 1577, was noted as absent from church and not paying his forfeiture because there was no churchwarden to collect it. The parson

of Racton, Poole's parish, claimed that they never had had any churchwardens or sidesmen and that Poole was a known sympathiser with the old religion, a receiver of priests and possessor of catholic books. The bishop it seems had reported to the Council the one man in the Boxgrove deanry who by the visitation presentments sounds like a thorough-going papist.

What then is the picture for all five deanries presented in the 1579 visitation returns? A total of 87 people were presented for at least one absence from church within the past year. Against this figure must be placed the fact that many parishes made no return; other parishes excused themselves because of infrequent services, or extent of the parish. Midhurst deanry was particularly incomplete in its returns. Boxgrove from 25 parishes presented 25 absentees, Midhurst from 30 parishes presented 11; Arundel from 29 parishes presented 15; Storrington from 28 parishes presented 16; Chichester from 7 parishes presented 22. Out of the 87 listed, there were only 2 names which appeared in Bishop Curtis' list in 1577. They were Geoffrey Poole and John Garrell. The recusants, or absentees from service, which were the concern of the 1579 Visitation form a completely separate group from those in whom the bishop thought the Privy Council would be interested.

What was the result of this visitation with reference to those charged with absence from church? The normal routine of Elizabethan episcopal visitations was to deal with offenders named in the replies to the visitation articles by ordering them to appear in the consistory court before the bishop and his officers. An examination of the records of

the consistory court for the diocese of Chichester will show what action was taken against any offenders. Fortunately there is a consistory court book, "Liber actorum curiae consistorialis Episcopalis Cicestrensis ad casus ex officio mero a festo Sancti Michaelis archengeli anno Domini 1579,"[1] and a Detection Book for the Archdeaconry of Chichester covering March 1579 to October 1580.[2] These two together cover the twelve months from October 1579 to October 1580. In that period any cases arising out of the visitation of 1579 could be expected to be dealt with in the consistory court.

The first Act Book from October 3rd 1579 to January 16th 1580 records the following recusancy cases: 26 people were cited for absence from church and the case was deferred until the next term; 9 people were excommunicated; 1 was admonished in court, 4 were dismissed with no case against them; a further 4 had not received their summonses; 3 people certified that they had attended service and ceased to be recusants; 4 of the 9 who were excommunicated this term sought absolution from the ban and satisfied the court about their conformity; a further 3 recusants sought and obtained absolution from the ban, but they had been excommunicated in an earlier term. There was a total of 50 cases for this Michaelmas Term, 23 of which concerned people who had been presented in the visitation of 1579, as absentees by the churchwardens.

The Detection book for the period March 12th to October 1st 1580

---

(1) W.S.R.O. E.1/17/4.
(2) W.S.R.O. E.1/17/5.

shows greater anti-recusant activity than in the previous six months. From March to October there were 93 cases against individual recusants, of these 5 had appeared in court in the previous term and of the remaining 88 only 8 were recusants presented by the churchwardens in the 1579 visitation. Thus there were 80 recusants dealt with who previously had escaped detection. Obviously there was a more severe policy being pursued than formerly.

How severe may be judged from the following analysis of the 93 cases: 7 were fined 12d; 18 were excommunicated; 1 conformed; 8 were dismissed as having already conformed; against 5 there was no judgement entered; 54, the largest group, were ordered to appear the following term, at Michaelmas. As in the period October 1579 to January 1580, deferment of the case out of failure to get the person to appear in court was uppermost in these records, that is what the group of 54 signifies. The ban of excommunication was the sternest measure of punishment; in 8 of the 18 cases where it had been decreed the offender begged for absolution and conformed. The 12d fine was but infrequently imposed.

These episcopal records reveal that there was a more numerous body of recusants in Sussex than bishop Curtys had brought to the notice of the privy Council. They were being dealt with in a routine way in the local courts by the bishop, though with a certain dilatoriness; however Curtys was not left long to continue in this way. Before the Autumn of 1580 the High Commission intervened to try to strengthen the bishop's

policy towards his flock.

On July 14th 1580 a letter came from the High Commission in London ordering the bishop to call before him all the recusants of his diocese, in order to learn how determined was their opposition.(1) In his turn Curtys sent out an order on August 8th to the deans of all the deaneries to appear by August 12th in the cathedral church in Chichester with a report on all the recusants within their jurisdiction.(2) Without waiting for these reports the bishop himself sent out a batch of at least 8 letters on August 10th ordering individual recusants to appear before him on August 16th and 18th.(3) The individuals concerned were Edward Gage, Mr. Ranford, Mistress Eliz. Bukley, Mr. Anthony Buckley, Mr. Lichfield, Mr. Parill Buckley, Mrs. Talk, her mother, and Mr. John Talke. The bishop had direct orders from the High Commission to call these people before him and about them he was to certify back to the Commission. The reason for this action is not clear, nor on what grounds the Commissioners had acted.

The deans reported by August 12th and produced 61 names from the deaneries of Arundel, Storrington, Midhurst and Boxgrove.(4) These 61 were definitely accused of stopping away from church not just once or twice but persistently over long periods; some for a space of five years. With this group the deans also listed 12 people who, though they came to church, did not receive communion.

---

(1) W.S.R.O. E.1/37/60.
(2) W.S.R.O. E.1/37/47, 59, 60, 62, 63, 64.
(3) W.S.R.O. E.1/37/45, 48, 49, 50, 51, 52, 53, 54.
(4) W.S.R.O. E.1/37/55, 56, 57, 58.

This list was made at the special command of the High Commission, it did not merely repeat the presentments of the 1579 Visitation nor the names of the accused in the Act Books for 1579-80. Rather it was a new, smaller list of people whom the deans, through the local minister, considered really obstinate recusants or catholic sympathisers. Jeffrey Poole, who was well known to the bishops, was regarded so much as the leader of all the other recusants and an open rebel against ecclesiastical government that he hadto be sent to the High Commissioners themselves, in London, by special order from them.(1) Because no constable, so the bishop said, would dare to seize him, two justices of the peace, Richard Fewknor and Henry Goringe, were ordered to apprehend him.

The bishop appointed August 24th as the day for examining those certified by the deans to be obstinate.(2) What was actually done that day is not recorded. The bishop throughout was acting on behalf of the High Commission and most probably sent all records of his dealings to that body. What remains at Chichester in the episcopal papers were merely the duplicate documents and rough drafts. From these, however, the usual line of High Commission action can be deduced. A group of four certificates su mitted by recusants from mid-September onwards show that some of them were being persuaded to conform within a certain time limit.(3) The bonds which had enjoined this certifying of conformity had been entered into in August,(4)

---

(1) W.S.R.O. E.1/37/42.
(2) W.S.R.O. E.1/37/46.
(3) W.S.R.O. E.1/37/37, 39, 41, 44.
(4) W.S.R.O. E.1/37/45. This is the recognisance which is related directly to the certificate of conformity E.1/37/41.

Whatever the overall results of his efforts, the bishop was not at all pleased with his success. In a letter to the hishop of London, one of the High Commission, on September 17th he complained bitterly of the difficulties he had tried to overcome.(1) The justices of the peace were not as zealous as they might be; many who came to church helped to hide or conceal those who did not; the recusants had friends everywhere. In fact, bishop Curtys handed the whole business over to the High Commission, saying that only the great authority of that body would achieve anything. To that end he forwarded all the details he had of the whereabouts of the recusants to the Commissioners and waited for them to act. What decision was taken in London, and what action followed in Sussex, remains unknown, in the absence of any records for the High Commission in the Southern Province.

However, Curtys was not to unload his responsibility for West Sussex so easily. Together with all the other bishops, he was later ordered by the Privy Council to certify the names of those refusing to conform themselves in matters of religion within his diocese.(2) This was on October 23rd 1580, and by November he was directing letters once more to his clergy to order them to bring the recusants before him in his own house at Aldingborne. The names of 42 people, thus commanded to come for examination, remain for us in various drafts of the letters sent out.(3)

---

(1) W.S.R.O. E.1/37/48.
(2) A.P.C. 23rd October 1580.
(3) W.S.R.O. E.1/37/11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28.

Of these, 23 had figured among the names which Curtys had sent to the High Commission in August. The bishop called on the help of Sir Thomas Shirley, Sir Richard Shelley and Mr. George Goringe to help in this matter so that the final list might be as complete as possible.(1) The basis of the new list was clearly the returns sent in previously by the deans for the use of the High Commission.

For the archdeaconry of Chichester the bishop gave a total of 47 names, with various remarks on those listed.(2) For example he informed the Privy Council of John Carryll esquire of the parish Warneham, worth 1,000 marks in lands, and £200 in goods. Unfortunately the bishop had not been able to examine him, because he was thought to be in Hampshire. Likewise Carryll's wife and two servants had escaped being found. William Shelley was already in the hands of the Privy Council so the bishop was able to report his name without fear of having to take action. Shelley's servants, recusants like their master, had escaped the bishop's vigilance. In short, this latest certificate of recusants which the bishop of Chichester sent to the Council was as defective as any of the previous reports on West Sussex recusancy. It certainly proved, if proof was needed, that Curtys was not the most resolute man to carry out a strict policy against recusants.(3)

There the Sussex situation can be left, with the local bishop trying once again to meet the demands of the central government. As in every

---

(1) W.S.R.O. E.1/37/29, 30, 31.
(2) W.S.R.O. E.1/37/2.
(3) Lambeth Palace MS. M.C. IV/183/f. 1r.- f.3r.

county in England there was no clear achievement to point to by 1580; but clearly the tempo of the attack against the recusants was increasing and was to go on increasing if the Privy Council and the High Commission could get their orders carried out.

Worcester:

From Worcester there are several lists,(1) undated but belonging to 1580, which show that the same policy was being carried out there as in Sussex. The headings to each list are sufficient to illustrate the situation. The first is headed "The names of such as have bene conferred withall and yet still remaine in their obstinacy."(2) This shows the bishop acting at the local level trying to persuade some eleven recusants to conform. The second list is headed "The names of such as stand excommunicate for not appearing before mee, being cited for absenting themselves from the churche, who alsoe have been sent for, by vertue of letters from her Majesty's High Commissioners and cannot be found."(3) This list of ten people mirrors the situation in Sussex in every way, even down to the inefficiency of the local ecclesiastical machinery. The next list bore the title "The names of suche as were sente for by yor Lordships [the Privy Council] and remayne there with you."(4) With that list the last strand is woven into the scene and, as before, the three powers directing the anti recusant policy were the

(1) Lambeth Palace MS. M.C. IV/183/f. 1r. - f. 3r.
(2) Lambeth Palace MS. M.C. IV/183/f. 1r.
(3) Lambeth Palace MS. M.C. IV/183/f. 2r.
(4) Lambeth Palace MS. M.C. IV/183/f. 3r.

bishop, the High Commissioners and the Privy Council.

Norfolk:

There were other ways in which recusants could be discovered and dealt with, than by the process of lists and Council orders and ecclesiastical courts. Before going on to examine the evidence for the Northern counties over the same years, it will, therefore, be instructive to look at an incident exemplifying one of the more unusual means of enforcing conformity. It is all the more important because the Queen herself is directly concerned with the opening stage of the incident.

She started on a progress in July 1578 through Suffolk, Norfolk, Bedford and Buckinghamshire.(1) In the course of this journey she was attended by, and stayed with, a number of recusant gentry. As the royal company moved on the catholic gentlemen were charged with their recusancy and taken into custody for further examination. Precisely how they were charged or by whom is not clear,(2) but a paper in the Cotton MSS. shows clearly the final result of this royal visitation.(3) It is endorsed, "A note of suche as have been dealt withall by my Lords [of the Council] this progresse for refusyng to come to church 1578."(4)

There are various sections in it, the first dealing with Norfolk. Under this county heading, there are nine names against which was written,

---

(1) A. Jessop. One Generation of a Norfolk House. London 1879, p.67-9.
(2) Jessop states that the Lord Chamberlain did charge Edward Rookwood as the cortege was about to leave his house. Jessop, op.cit., p.67.
(3) B.M. Cotton MS. Titus B.III.22.ff. 69r. - 70v.
(4) B.M. Cotton MS. Titus B.III.22.ff.69v.

"All theis do remayne in Norwich to be conferred with all by the Bishop or such as he shall appoint betwixte this and Michaelmas next."(1) The people concerned were important and wealthy Norfolk gentry such as Sir Henry Bedingfield, Humfrey Bedingfield, John Drury, Ferdinand Parris, Thomas and Robert Lovell. Two further people, James Hubberd and Phillippe Awdley were bracketed together with the remark "conformed themselves and were dismissed with favour."(2) A third, William Gibbon gent. was content to conform himself, and entered a bond to bring a certificate of doing so, to the bishop. The last two names, in the Norfolk section, are Rookwood and Downes; the former was described as being committed close prisoner to the gaol of the county of Norfolk, the latter to the city gaol of Norwich. This unexpected method of charging people with nonconformity claimed fourteen cases in Norfolk.

In Suffolk five recusant gentlemen were held until Michaelmas to be conferred with; a further four were committed close prisoner; another conformed himself and promised the usual certificate of attendance at church; another was to stay at Cambridge to confer with an anglican divine: a total of eleven. In Essex, a certain Rook Green and a Mr. Crawley were committed to private houses to be talked to by preachers. Three others conformed themselves, and a further seven people were marked off as coming to church and free from the charge of recusancy. There remained three more who had not appeared to be examined: a total of 15.

---

(1) B.M. Cotton MS. Titus.B.III.22. f. 69r.
(2) B.M. Cotton MS. Titus,B.III.22. f. 69r.

It is possible to follow the course of events, with reference to the Norfolk group, in greater detail, from a Privy Council order dated August 22nd, 1578.(1) This describes what happened after the recusants were detained at Norwich. They were brought before the Privy Council, with the bishop of the diocese, Sir Christopher Heydon, and Sir William Butts present as advisers to the Council; a combination of a local ecclesiastical commission (a quorum of three was required) and the Council. The recusants were charged "that contrary to all good lawes and orders, and agaynste the dutie of good subjectes, they refused to come to the churche at the tymes of prayer, sermons and other divine services."(2) On being asked to conform, they all refused.

However, punishment was not the same in each case. Mr. Rookwood of Euston, because he had already been conferred with by the bishop, had resisted persuasion and stood excommunicated, was to be committed to prison; likewise, Robert Downes. The remaining seven were put under a bond for £200 by which they were to stay in Norwich, and have daily conference with the bishop until Michaelmas next. If then, they were still obstinate in their recusancy, they were to be committed to gaol until they conformed.

The subsequent treatment of the people convicted during the royal progress of 1578 was according to the usual pattern, a spell in prison,

---

(1) B.M. Cotton MS. Titus.B.III.25.
(2) B.M. Cotton MS. Titus.B.III.25. f.74r.

release under bonds interspersed with attempts to persuade the obstinate recusant to conform, then a further period in prison, perhaps with a release later for reasons of health: a continual cat and mouse existence.

For example, Sir Henry Bedingfield was re-interviewed by the ecclesiastical commissioners in January 1579.(1) Then in February he and the others who had been put under the care of the bishop of Norwich for the purpose of religious persuasion were ordered to be put in the common gaol.(2) Rook Green of Essex who had been imprisoned at Michaelmas 1578 was released in June 1579 for reasons of health and put in private custody.(3) The same was done with Evans Fludd in January 1580.(4) He had been committed to prison at Cambridge; later he was given permission to take medicinal baths at Cambridge.(5) Edmund Bedingfield was released on bonds to arrange his son's marriage in May 1580.(6)

There we must halt the account of the royal progress of 1578 and the recusants, it stands as an example of the unusual way in which the policy of religious repression could begin. It raises the question,how far did incidents like this move Elizabeth herself away from the tenacious veto which she had wielded against every threatened change in the laws against recusants? A letter from the Council to bishop Aylmer, early in 1579, proves that the government were concerned at the absence from church of the justices of the peace; a fact which had come to light

---

(1) A.P.C. 15th January 1579
(2) A.P.C. 15th February 1579
(3) A.P.C. 27th June 1579
(4) A.P.C. 24th January 1580
(5) A.P.C. 10th June 1580
(6) A.P.C. 26th May 1580

during that same progress of 1578. It was feared that this defection was not restricted to the counties where the Queen had travelled but that it was a common source of bad example.(1)

The evidence considered so far suggests that the bishops and some of the Privy Council who had been eager for a new statute in 1576, must have lost nothing of that conviction from their experience in the years that followed. Certainly, Walsingham and Burghley showed a practical belief that something more had to be done than to trust in time's slow erosion of catholic belief and practice. To them it was clear, that time was not helping towards conformity. The constant stream of letters from the Council, helping, correcting, and urging the bishops on, in their efforts to make people attend church, witnessed to a policy which was leaving the 12d fine far behind.

Among the diocesan records and the orders of the Council, already examined, there has been a hint, sometimes direct proof, of the operation of a third force, which helped in the fight with recusancy in the late seventies. This was the Ecclesiastical High Commission. Of its work in the southern province, no continuous record remains, but fortunately the Act Books of the High Commission for the north are preserved at York.(2) They cover the whole of the Elizabethan period and beyond. It is among these records that the material is found to complete this study of government policy leading up to the 1581 statute.(3)

---

(1) P.R.O. S.P. 12/45/16. Walsingham's letter book.
(2) Borthwick Institute. York High Commission Act Books.
(3) Y.H.C. R.VII. A.9.

What do these records show this court to be doing over the same period, 1577-80? By virtue of Walsingham's conference with the bishops in July 1577,and because of the policy it inaugurated, it was a significant year in recusant history; a d it seems equally important in the records at York. In the book for that year there is an entry for July 2nd, which reads Patet acceptio et susceptio Commissionis reginalis per reverendissimum patrem dominum Edwinum Eboracii archiepiscopum et alios commissionaribs suae maiestatae in prima secunda et tertia paginibus sequentibus.(1)

Then follows the account of the public reception and reading of the new commission, the admission of new members, and the first full session in the Cathedral on July 5th. Such an event was a reaffirmation of the crown's interest in the work the Commissioners had to do and a strengthening of their numbers. For the benefit of all the aims of the Commission were set out afresh. Broadly speaking they were to investigate, try and determine all offences concerned with service and sacraments as set down in the statutes of the first, fifth and thirteenth years of the reign, as well as all offences covered by ecclesiastical law. According to an earlier version of such a commission, its members were to "use and devise all suche politique wayes and meanes for the triall and searchinge out of all the premisses as to yow or thre of yow shalbe thought most expedient and necessarie."(2) They were allowed, "to take and receave

---

(1) Y.H.C. R.VII.A.9. f.89v.
(2) B.M. Yelverton MS. 48018/19. f.69r.

of everie offendor a recognizaunce or obligacion, to our [the Queen's] use, in suche sume or summes of moneye as to yow, or thre of yow, shall seme mete, aswell for the personall appearaunce of him or them before yow, as also for the accomplishment of such orderes &c as to yow ... shalbe thought convenient."(1) They could imprison the accused, or anyone called to testify in a case. Anyone could be put on oath to answer unspecified questions. Any place would serve as a court.

That was the scope of the commission which was renewed for the whole of England in 1578 and for the north in 1577.(2) What use was made of it? The court of High Commission had been active, of course, before July 1577 in York. If we look at its record, for a term's activity a year earlier, the Easter Term 1576, there is evidence of about twelve entries in that term dealing with recusant business.(3) From July 2nd 1577, when the new commission came into force, to the beginning of the Michaelmas Term on October 7th, there are sixteen entries dealing with recusancy matters.(4) From October 7th onwards for the whole of the Michaelmas Term there are seventy-five entries,(5) and for the Michaelmas Term a year later, 1578, there are one hundred and forty-seven entries concerned with recusancy.(6) It was a large increase in the Commissioners' work and from this time onwards recusancy

---

(1) B.M. Yelverton MS. 48018/19.f.69v.
(2) B. . Yelverton MS. 48018/19.f.64r. "A general commission eclesiastical/for the whole realme 23 April, 1576."
(3) Y.H.C. R.VII.A.9. ff.14r.-21r.
(4) Y.H.C. R.VII.A.9. ff.91v.-100v.
(5) Y.H.C. R.VII.A.9. ff.100v.-126v.
(6) Y.H.C. R.VII.A.9. ff.164v.-190r.

became the major concern of this court. All types of cases continued to be heard concerning titles, adultery, church repairs and every point of ecclesiastical discipline, but by far the majority were recusancy cases.(1)

More significant than the volume of recusancy trials was the type of trial dealt with from July 1577 onwards. To grasp their full significance it is necessary to examine the local scene closely. In August 1576 an order had come from the Queen to the mayor and aldermen of York instructing them to draw up a certificate of all those not coming to church.(2) Three days later another set of orders arrived from London, through the Lord President of the North, expressing grave disapproval at the state of religion in York.(3) The city council were ordered to divide the city into areas and collect full presentments of recusants, in cash. The result of this was to be sent to the Lord President. By mid-August a further rebuke came from the Queen.(4) The letter stated that the Statute of Uniformity was completely disregarded, no fine was levied, and no one was taking any steps to change this.

> We mindinge therefore the speedie reformacion thereof, have thought to put you in remembraunce of your office and duties therein, to be from henceforth more carefull and diligent in the better execucion of the said statute and lawe, than heretofore you have bene. (5)

---

(1) M.C. Cross, "The Career of Henry Hastings Third Earl of Huntingdon 155 -1595." (University of Cambridge Ph.D. Thesis), p.140. "Catholicism was by far the most urgent task which the Northern High Commission had to deal with and far more cases of recusancy were heard than any other type of ecclesiastical offence."
(2) York City Records. Class B. 26. f.77v.
(3) Y.C.R. Class B. 26. f.78r.
(4) Y.C.R. Class B. 26. f.83r.
(5) Y.C.R. Class B. 26. f.83r.

By virtue of this letter, the city council had to command the churchwardens of every parish to see that the statute was executed according to its true meaning. This they were to do by demanding 12d. from all absentees from church, for past as well as for present offences. Some action was taken, in accordance with this letter, for on August 27th, 1576, in the council chamber, before the mayor and aldermen, eight citizens of eight different parishes were called to answer for their recusancy. They refused to go to church in the future and would not pay their fines. Consequently the council decided to act, and the entry for the first of the eight was made out thus in full:

> Therefor it is now aggreed by theis persons [i.e. the Council] that the churchwardens of his parishe, with aid of the constables there, shall forthwish goo to his hows and take his distresse [seize his goods] and if the said Bowman shall chance to make any reskewe or resistance then he to be apprehended immediately and comytted to warde during my Lord Mayor's pleasure. (1)

The same was to be done with the other seven and the entry continued "all other men, being like offenders shalbe called in and persuaded to come and upon their refusal to be used in like order."(2)

On that vague resolution the matter ended until a letter from the Privy Council on October 12th, 1576, arrived to tell the city fathers how unsatisfactory their efforts had been to ensure religious conformity.(3) The certificate of recusants which the Privy Council had asked for in August had been very imperfect. Consequently a new one had to be made

---

(1) Y.C.R. Class B. 26. f.84v.
(2) Y.C.R. Class B. 26. f.84v.
(3) Y.C.R. Class B. 26. f.84v.

and sent to London. This reproof had its desired effect for the mayor himself and the aldermen called the recusants before them ward by ward.(1)

By November 20th the council had collected the examinations of the recusants "lately taken before the Lord Mayor and aldermen in their several wards, by vertewe of the Queene Majestie's late commission."(2) After perusal of these lists it was agreed that "Certificate shalbe forwith thereof made to the Lord President, according to the said commission."(3) A copy of the certificate was entered in the House Book and in the preamble to it the mayor explained that in holding these enquiries, ward by ward, he had tried to avoid any appe rance of alarm or excitement. Using one or two people in each parish as informers he had gained some idea of those who were commonly held to refuse to go to church. Then acting on this information he and the aldermen called the suspects before them and from that first-hand knowledge drew up a definite list of those who "utterlye" refused to attend church; in other words the really obstinate recusants.

Walmgate ward produced fifteen such self avowed recusants, Monkward, twenty-three; Miklegate ward, eight; Bootham ward, nine; and the Ainsty, two;(4) a total of 57 for the whole of York city. They were a varied group of citizens; mainly women, 51 out of 57. They were wives of tailors, butchers, felt makers, weavers and locksmiths; some were well-to-do, others were poor, four at least were servants, while three

---

(1) Y.C.R. Class B. 26. f96v.
(2) Y.C.R. Class B. 26. f.96v.
(3) Y.C.R. Class B. 26. f.96v.-
(4) Y.C.R. Class B. 26. f.96v.-99v.

were the wives of gentlemen. Six were widows.

Besides entering their names and station the examiners had recorded the reasons given for not attending church. These are instructive in the attachment they show to the old religion as well as in their similarity one with another. On reading the certificate the picture emerges of small groups of people all well known to each other and all coming under the instruction or advice of one or two priests. Let the entries speak for themselves.

"Elizabeth Wilkinson wif of William Wilkinson, mylner, sayeth she cometh not to the churche, bycause there is neither priest, aultar, nor sacrifice."(1) "Elizabeth Portar, widowe, sayeth she cometh not to the churche bycause that the service there is not as it ought to be, nor as it hath bene heretofore. And she sayeth she is a poore woman and of no substance,but we thynk hir worth in clere goods 40/-."(2) "Margaret Clitheroe, wif of John Clitherowe, bocher, cometh not to the churche, for what cause we cannott learne, for she is nowe great with childe and could not come before us."(3) "Isabell, Bowman, wif of the said William Bowman, sayeth she cometh not to the churche for hir conscience will not serve hir, because there is not the sacrament honge up and other thynges as hath bene aforetyme. And further she sayeth that she doeth not beleve that such woords as the preist redith are trewe."(4)

---

(1) Y.C.R. Class B.26. f.96v.
(2) Y.C.R. Class B.26. f.96v.
(3) Y.C.R. Class B.26. f.98r.
(4) Y.C.R. Class B.26. f.96v.

So the depositions mounted up a mixture of conservatism and crude theology, but most frequently with an appeal to conscience and to an inner conviction against the law. Some like Alice Lobby, wife of a tanner, not only voiced their dissatisfaction with the services but vowed they would not receive communion in the authorised form as long as they lived. It was deep rooted dislike of the established church which came to the surface in this inquest, and it is a loss not to have some record of the Earl of Huntingdon's reaction when the Lord Mayor and five of his council went to deliver their findings to him,(1) at the end of November 1576.

Perhaps he waited to consult the Privy Council on what to do about the recusants in York. Certainly by January 1577 there was a very clear result recorded in the House Book of the York city council. With great solemnity and references to the damage done to the name and reputation of the city of York the entire council deplored the "synister persuasions and secrete practises"(2) of those who would not accompany their christian neighbours to church. To put an end to this bad example and defiance of the law the council resolved that the 12d fine should be vigorously exacted, not only from the heads of households, but from husbands for their wives, and from masters for their servants and apprentices. The

---

(1) Y.C.R. Class B.26. f.101v.
(2) Y.C.R. Class B.26. f.109r.

money thus levied was to go to the poor of the city. If anyone resisted the churchwardens or the constables in their duty of seizing goods in lieu of money,(1) then he was to be imprisoned by order of the Mayor. All the aldermen and councillors signed the document, or rather those who could not write, made their marks. This was on the 15th January 1577.

The outcome of this solemn declaration to uphold the statute of Uniformity was indeed ironical. On the same day as the alderman and councillors fixed their marks the new lord mayor was elected, John Dyneley.(2 He with the rest had agreed to the 12d. fine being enforced. And in April 1577, he gave judgement against eight recusants who had not paid their fines nor allowed their goods to be seized by the churchwardens. Of these eight, three appeared to answer for their wives' recusancy - they were committed to ward.(3) On June 5th the lord mayor in council ordered Percival Geldant who was in custody to go to his home and immediately deliver up to the churchwardens of Christ's parish a "sufficyente distresse" for every Sunday and holyday that his wife had been absent from church.(4)

For the rest of his year of office the House Book is silent about Dyneley's efforts to combat recusancy - but the records of the High Commission fill this gap and reveal that Dyneley had been leading a

---

(1) An example of this occurred in 1577 April when the churchwardens of All Hallows on the Pavement seized "8 pare of nether stocks of hose" belongin to John Wildon for his wife's recusancy in lieu of 2/5 which Wildon would not pay. Y.C.R. Class B. 27. f.25r.
(2) Y.C.R. Class B.27. f.110r.
(3) Y.C.R. Class B.27. f.19r. 10th April 1577.
(4) Y.C.R. Class B.27. f.55r.

double life. This public upholder of orthodoxy had trouble in his own home.

The first case to be heard by the new Ecclesiastical Commissioners in York Cathedral on July 5th 1577 in the presence of the Lord President and the archbishop was that against John Dineleye mayor of the city of York. He had to appear before this court "for that his wife refuseth to come to service, sermon and to communicate."(1) Many who stood and listened to the case must have asked themselves was there anyone in York who was not conniving at recusancy one moment and denouncing it the next.

The archbishop delivered an exhortation to Dineley "puttinge him in minde of his office, and of that place which he bearethe under her Majesty and that he is unmete to govern a citie that cannot govern his owne household."(2) Dineley pleaded that his wife's ill-health was the cause of her absence from church, but rather significantly he refused to enter into a bond for her future attendance but instead agreed to pay the forfeitures. He had to pay for his wife's absence on sixteen Sundays and four holydays. The court made him pay two shillings for each occasion. Why the fine was double the statutory 12d. was not explained in the record. It may be that the court was using its power to impose a higher fine than 12d by way of example in such a public case.

With the Lord Mayor, on the same day and appearing also for their wives' recusancy were Robert Cripling, alderman; John Thwaite of Marston,

---

(1) YLH.C. R.VII.A.9. f.91v.
(2) YLH.C. R.VII.A.9. f.91v.

gentleman; Edward Beseley of York, gentleman; George Hall, one of the city councillors, and Brian Palmer of Naburne. They all agreed to pay fines on behalf of their wives. These fines, totalling £9.0.0., were paid on October 29th in to the han s of William Fothergill, the public notary, who was to keep it until ordered by the court to distribute it to the poor.(1) Dineley paid 40/-, Thwaites paid 40/-, Hall 40/-, Beselay paid 20/-.(2) The money was distributed to four parishes on October 31st.(3)

This was not all, these men were exhorted by the archbishop to try to persuade their wives to conform. Dineley agreed to let a minister come to his house to say divine service and he himself promised to say it sometimes for his wife's benefit. The court was eager to convert as well as to fine.(4) The Commissioners had clearly made the most of this occasion, using it as a warning and example for the other recusants in York. They had not proceeded against many, but they had selected prominent citizens as a threat that no one, not even the mayor, was to be free to oppose the law.

To this end on October 24th Dineley, the Recorder of York, and an alderman, were judicially interrogated by the Ecclesiastical Commissioners about the action taken in accordance with the law made by the city council on January 15th last - the local law had been a confirmation of the 12d fine by statute.(5) Dineley and his fellow councillors produced a list

(1) Y.H.C. R.VII.A.9. f.108r.
(2) Y.H.C. R.VII.A.9. f.108r - 109v and f.114v.
(3) Y.H.C. R.VII.A.9. f.117r.
(4) Dineley was again ordered to pay fines for his wife on April 11th, 1578. How much was not specified. Y.H.C. R.VII.A.9. f.146v.
(5) Y.C.R. Class B.27f101v.

of all those of whom a distress had been taken, and asked the advice of this court whether the goods seized should be sold and further "he, the Lord Maior, did then beseche the advise of this honorable courte tochinge such be in warde by appointment of this Commission whether he should take distresse or levye the forfeiture of any such or not?"(1) The Commissioners answered that while people were in prison they were not to be fined nor their goods seized, but when at liberty "as well for tyme past as for to come" then the fine was leviable.

Dineley acknowledged his past slackness in dealing with recusants, and the Recorder, Alderman Herbert, promised that in future he would see that the law was duly executed. The Commissioners held him to this promise, for on November 18th Dineley and a new Recorder appeared before the Commission with a full account of what people had been convicted of recusancy and what action had been taken.(2) Unfortunately the Commission Act Book does not contain a copy of the lists submitted by Dineley and the Recorder. It does record the appointment of four citizens, two of them members of the city council, as special overseers to ensure the unremitting exaction of the 12d. fine. With that the matter was allowed to rest for a time.

In all this the Ecclesiastical High Commission had been the controlling force. Its role was one of urging the local officials to do their duty, examining the results of their efforts and actually calling some of them into court as offenders.

---

(1) Y.H.C. R.VII. A.9. f.107v.
(2) Y.H.C. R.VIII.A.9. f.116v.

While putting pressure on the mayor and council of York what was the Commission doing by itself under the able direction of the Earl of Huntingdon? There were a variety of penalties it could impose; the use of fines has already been illustrated in connection with Dineley and other cases; the use of prison and bonds was by far the more usual method of reducing a recusant to conformity. The Commissioners were not hurried in their procedure but relentlessly kept on examining and re-examining an offender, putting him in prison for a period, then releasing him on bond which expired at a given date. Thereupon he reappeared in court, and forfeited his bond, and the whole process began again.

The conditions of the bond issued by the Commissioners prove that they required full obedience in matters of religion; a half-hearted promise of reformation would not suffice. The form used by the High Commission in Yorkshire is preserved in the Public Record Office; the conditions laid down were:

> that yf A.B. of C. countŕe of York, his wef and whole family do from henceforthe dutifully repare to -- parishe church or other usuall and allowed place of common praier, and there quietly abide and heare divine service and sermons and receave the holy communion from tyme to tyme as by the lawes and statutes of this Realme they are bounde and as to the dutie of good Christians and obedient subjects appertayneth... (1)

The important points in this bond were its insistence as much on the reception of communion as on attendance at church, and secondly its overall demand that the whole family had to attend service. The proposal to link

---

(1) P.R.O. S.P.15/27/67.

communion and church attendance together had been one of the main aims of the bishops in and out of Parliament since 1570. It was never incorporated in any statute. The drive against the entire recusant family, through its head, was not to receive statutory support until 1593. Yet in both these respects the High Commission was pursuing its own line and asking much more from the recusant than the civil courts could in 1577. The Commissioners' aim was complete acceptance of the established religion by the recusant. He must attend services and sermons and receive communion, nothing was to be avoided: performance of such practices was to be constant and wholehearted.

Let us examine the endeavours of the Commission at York in this work. Its methods were unhurried but its penalties were severe. The following cases, traced through the Act Books, will illustrate best the Ecclesiastical High Commission's technique. Eight cases have been selected as examples. They include men and women, from the city of York and beyond; from various social classes and displaying varying degrees of opposition to this ecclesiastical court.

The first case is that of Christopher Monkton gentleman of Cavell and Londesborough in Yorkshire.(1) He had been elected to the first two Parliaments of Elizabeth's reign. The return of Catholics for York diocese in 1577 listed Monkton as worth £40 in goods and £20 in lands,(2) and a recusant.

---

(1) C.R.S. XVIII, p.52.
(2) C.R.S. XXII, p.16.

On January 27th 1578 he was ordered to appear before the High Commission at York for refusing to receive communion and standing excommunicate.(1) He did not appear in court and an attachment was renewed against him on April 7th to enforce his attendance at the Sessions at Pentecost in May.(2) The entry for May 26th, the Monday after Trinity Sunday, describes what had happened up to that date, before recording the day's events.(3)

The court had ruled, in April, that if Monkton could not be found at home, then the attachment order was to be affixed "upon the dores of his dwelling howse whereby he is commaunded to appeare under paine of a hundred pounds to be levied of his lands, goods, cattells and tenements to her Majestie's use ...(4) This threat produced the desired effect, for Christopher Monkton did appear in court on May 26th 1578 to answer the charge against him.

He openly confessed that he neither came to church nor received communion. Upon his refusal to amend he was committed to the custody of the Sheriff of York. How long he was held in custody is not revealed by the Act Books. The next entry for Monkton is dated April 17th 1579 which states that he was then under bond, for £100, and was due to appear in court on that day.(5) He duly appeared and his bond was renewed until the following Michaelmas. He had not yet conformed but his bond was not

---

(1) Y.H.C. R.VII.A.9. f.128r.
(2) Y.H.C. R.VII.A.9. f.141r.
(3) Y.H.C. R.VII.A.9. f.150r.
(4) Y.H.C. R.VII.A.9. f.150r.
(5) Y.H.C. R.VII.A.9. f.215v.

forfeited, rather judgement was deferred. At Michaelmas, October 5th, the case was again deferred until the following Easter 1580[1] when another deferment was granted until Michaelmas 1580.[2]

Meanwhile, the court commanded him to appear on August 5th, 1580, at Beverley.[3] Success seemed to crown the Commissioners' waiting policy. Monkton was persuaded to conform, saying that many a good man had gone to church and come to no harm. Upon this he was ordered to reappear the following day, presumably to satisfy the court that his change of mind was genuine. It was a necessary precaution, for on the next day, August 6th, he refused to go to church and was committed to the custody of John Alcock and sent to prison at Hull.[4] While at Hull he was ordered to go to church under the supervision of his jailer. This he did not do and consequently on October 3rd 1580, he and six other recusants were fined various sums for their refusal to go to church. Monkton was fined 100 marks.[5]

The Commissioners had not finished with him yet. The name Monkton is entered on the sessions for August 28th 1581, but there is no further remark against it. However an entry for April 23rd, 1582 tells the story of what had been taking place.[6] Monkton had been under a bond of £500, obliging him to go to church and to certify his attendance to the court. At last the Commissioners had a taste of victory. On this

---

(1) Y.H.C. R.VII.A.9. f.242v.
(2) Y.H.C. R.VII.A.9. f.266v.
(3) Y.H.C. R.VII.A.10. f.11r.
(4) Y.H.C. R.VII.A.10. f.12v.
(5) Y.H.C. R.VII.A.10. f.46v.
(6) Y.H.C. R.VII.A.10. f.164v.

day, April 23rd 1582, Monkton came with his certificate proving that he had, at last, attended the established church. Having gained this much, the Commissioners ordered Monkton to receive communion and to certify this after Christmas.

The process was to begin all over again, this time with communion as the bone of contention. The victim turned up in court on January 14th 1582 without a certificate of having received communion; the court gave him further time, until the feast of St. John the Baptist to comply with the order.(1) By October 1st he had not done so(2) and thus had to appear in court on October 5th. Again he was warned that he must receive communion or else receive what punishment was fitting.(3) He was given two months in which to obey. Monkton was not to be persuaded on this point of communion. He was still holding out against all pressure in January 1585 when the next entry concerning him is to be found, dated January 18th 1585. In default of certifying that he had received communion he was handed over to the care of two preachers, Mr. Kay and Mr. Pollard.(4)

Perhaps through the efforts of these two clergymen, Christopher Monkton was persuaded to agree to receive communion, for he promised his judges, on October 5th, that he would do so.(5) This was merely a delaying tactic and not a change of heart. On April 11th 1586 he was again before

---

(1) Y.H.C. R.VII.A.10. f.189r.
(2) Y.H.C. R.VII.A.10. f.229r.
(3) Y.H.C. R.VII.A.10. f.276v.
(4) Y.H.C. R.VII.A.10. f.287r.
(5) Y.H.C. R.VII.A.11. f.22r.

the court because he had not yet received communion. He was ordered to appear before the court when summoned.(1)

On that command, the case of Christo her Monkton disap ears from the Commission's records. His name does not occur again though he continued to be a recusant as the evidence of the Recusant Roll of 1592 proves.(2) On that roll he appears as a convicted recusant part of whose lands had been seized by the crown in 1589. Thus the Commissioners would seem to have failed in their seven year long struggle to force him to become a practising member of the state church, though they had used every weapon in their armoury, fines, imprisonment, bonds, private persuasion, public exhortation and leniency. Monkton had survived it all but not without expense and personal suffering.

This case has taken our account beyond the limits of this chapter but that is necessary in trying to understand the method employed by the Ecclesiastical Commissioners against recusants. Time and changes of statutory law did not matter; they acted within the terms of their commission when and how they thought fit. The following cases endorse this fact.

Jane Geldard was the wife of Percival Geldard, a butcher living in Christ's parish, York. In January 1576 she appeared with two other women before the Commissioners and admitted that she had not communicated

---

(1) Y.H.C. R.VII. A.11. f.55r.
(2) C.R.S. XVIII, p.52.

not come to church for two or three years.(1) The court was prepared to remit all these first offences if she would agree to a conference with learned men and agree to attend church in f ture. She refused and was committed to the Castle at York until she should conform. The other two were committed to the prison called the Kidcote on Ousebridge under similar ruling.

On April 30th 1576 Jane Geldard was to appear in court, but there is nothing entered against her name for this day.(2) She was at liberty and still refusing to go to church as the House Book of the city council proves, for on November 20th 1576 Jane Geldard appeared in the certificate of "persons as doe utterlye refuse cominge to the churche."(3) When examined by the Mayor she said that her conscience would not allow her to go to church.(4) Her husband, Percival Geldard, refused to pay any fine for her and prevented the churchwardens from taking any of his goods by way of a distress.(5) This was still the situation in April 1577 and for his refusal Geldard was deprived of his liberty and held under custody until further orders. By June 5th he agreed to allow some of his goods to be seized for every Sunday and holyday that his wife had been absent from church, and consequently he was free to return home.(6)

His liberty was short-lived for a month later, July 5th, 1577, both

---

(1) Y.H.C. R.VII.A.8. f.169r. The day of the month is missing from this entry.
(2) Y.H.C. R.VII.A.9. f.14v.
(3) Y.C.R. Class B.26. f. 6r.
(4) Y.C.R. Class B.26. f.97v.
(5) Y.C.R. Cla s B.27. f.19r.
(6) Y.C.R. Class B.27. f.55r.

he and his wife were in the Commissioner's court. Jane still refused to go to church and Percival refused to pay the 12d fine on her behalf. She was committed to the Kidcote on Ousebridge and he to the Castle.(1) By August 5th he was at liberty but under a recognisance of £20 by which he had to come before the Commissioners on October 7th.(2) He duly appeared on the 7th October and was ordered to come the following day. Then the case was deferred until October 29th.(3) The Commissioners were at this time trying to gain accurate information from the city council about the fines and confiscations which had been levied on recusants. Consequently Percival Geldard was put under bond on October 29th and handed over to the examination of the mayor and council. He had to report back to the Commissioners on November 18th.(4) The city council must have satisfied the Commissioners that Geldard had paid some fines because, when he appeared before the Commissioners in the Cathedral on November 18th he was allowed to go free and even given permission to visit his wife who was still in prison.(5) The Commissioners, however, insisted that Jane must be kept separate from the other recusant prisoners; she was clearly a person able to sway others to remain recusant.

She remained in prison until February 1578. On February 19th her

---

(1) Y.H.C. R.VII.A.9. f.95r.
(2) Y.H.C. R.VII.A.9. f.99r.
(3) Y.H.C. R.VII.A.9. f.111r.
(4) Y.H.C. R.VII.A.9. f.110r.
(5) Y.H.C. R.VII.A.9. f.117v.

husband agreed to enter into a bond on her behalf promising to deliver her up as a prisoner again the Sunday after Easter and in the meantime he was to pay 2/- for every Sunday and Holyday on which she did not go to her parish church.(1) How long Jane Geldard spent in prison is not revealed by the Commission Act Books, but her husband was himself imprisoned on July 19th 1580 for being suspect in matters of religion and for refusing to take the oath before the Commission by which he would have been bound to answer any questions put to him. He was committed to the Castle at York until further decision by the court.(2)

He was still in prison in January 1582 and accordingly excused from paying the poor rate levied by the City.(3) In August 1582 at the Quarter Sessions both he and his wife were presented for recusancy for the previous four months.(4) At the Assizes, later in the same month, Jane Geldard, with seven other women, were presented for four months recusancy. The indictment described their attitude in these words: "contemptuose obstinate et volutarie seipsas absentaverunt et absentes fecerunt ... non habentes aliquam legalem sive racionabilem excusacionem."(5) Jane Geldard, with the rest, pleaded guilty and had judgement given against her; whether fine or prison the record does not state. The clerk noted that the judgements together with the indictments were all carried away by Mr. Frankland, an official of the court. The Commissioners

---

(1) Y.H.C. R.VII.A.9. f.158r.
(2) Y.H.C. R.VII.A.10. f.4r.
(3) Y.C.R. Class F. III. Sessio generalis. 6th January 1582.
(4) Y.C.R. Class F. III. 3rd August 1582.
(5) Y.C.R. Class F. III. 6th August 1582.

did not concern themselves with her after this. She appeared again at the Quarter Sessions in March 1585 accused of six months recusancy and again pleaded guilty, beyond that her fate is unknown.(1)

Meanwhile the Commissioners were still applying pressure on the husband. Percival Geldard appeared before them on February 18th 1583 and promised to go to church henceforward.(2) He was ordered to certify his attendance at church by April. On April 8th 1583 his certificate was produced in court which the Commissioners accepted as sufficient and there the case ended.(3) At least they had succeeded in turning the head of the family away from recusancy but with his wife they had failed. The case is a good example of civil and ecclesiastical courts working together, which was a feature of the York scene. Also it offers proof of the Commissioner's readiness to hold the man responsible in law for his wife's recusancy.

The third case concerned Anne Cook and her husband, Ambrose Cook, a sadler of the parish of St. Martin's in York. In the certificate of recusants compiled by the Mayor for the Lord President in November 1576 Anne Cook was returned as one refusing to go to church because it was against her conscience to do so.(4) On October 19th 1577 she was called before the Commissioners on this charge but no action was taken then.(5) The entry for November 18th 1577 states that Anne herself appeared before

---

(1) Y.C.R. Class F. Sessio generalis. 8th March 1583.
(2) Y.H.C. R.VII.A.10. f.195r.
(3) Y.H.C. R.VII.A.10. f.197v.
(4) Y.C.R. Class B.26. f.99v.
(5) Y.H.C. RVII.A.9. f.110r and f.114r.

the Commissioners because her husband was imprisoned by the Mayor for refusing to pay fines on her behalf.(1) In this situation the Commissioners exhorted her to conform but took no further action until April 1578. Then they called Anne Cooke and her husband before them and ordered him to bring his wife to service on Ascension day. If she would not go then she was to be committed to prison the day after the feast of the Ascension.(2) In August she was still obstinate in her recusancy and was re-committed to prison.(3) She was released from this jail in April 1579 and her husband entered a bond of £40 by which he promised to deliver her up as a prisoner again in June.(4) Once again on June 17th she was allowed her freedom until October 5th.(5) On each occasion the condition was made that if she conformed then she would not have to return to jail. She did not conform and presumably returned to prison.(6)

Early in March the next year, 1579, she was summoned before the city council and exhorted to go to church; she replied that she could not promise to do so at a definite time.(7) There the matter rested but the Cook family were soon involved with the Commissioners over the baptism of a child. On December 19th 1579 Ambrose Cook admitted to the Commission court that a priest had baptised his child recently and not the curate of his parish. He said that he could not remember when it

---

(1) Y.H.C. R.VII. A.9. f.118r.
(2) Y.H.C. R.VII. A.9. f.147v.
(3) Y.H.C. R.VII. A.9. f.161v.
(4) Y.H.C. R.VII. A.9. f.162r.
(5) Y.H.C. R.VII. A.9. f.212v.
(6) Y.H.C. R.VII. A.9. f.232v.
(7) Y.H.C. R.VII. A.9. f.240v.

had been done, nor by whom, nor who the godparents were, for which suspicious loss of memory he was committed to the Castle as prisoner until the Court ordered his release.(1) According to a note in the margin against this entry a warrant was issued by the Archbishop of York on January 26th 1580 ordering his release.

This was not a permanent release because on May 26th 1580 he was accused by the Commissioners of not coming before them when ordered, of resisting arrest by the sheriff's officers and of other contempts not specified. For all this he was committed to St. Peter's prison again as close prisoner.(2) Five days later he was released because the Commissioners thought that he had been sufficiently punished for his contempts, but he was promptly dealt with for matters of religion for which hitherto he had not been called before them. This was the question of his own absence from church. He said that in conscience he could not attend service nor receive communion; with that he was ordered back to the lower prison of the said St. Peter's Prison, "until such time as he shall be enlarged."(3) He had to pay his keeper a fee of 4/- and another of 2/8 for his diet.

There he remained until June 17th when he was arraigned with three others of the City of York, before the Commissioners. They were exhorted to frequent the church "et expresse recusarunt et eorum quilibet recusarit," as the notary recorded, therefore they were commited to the

---

(1) Y.H.C. R.VII.A.9. f.250v.
(2) Y.H.C. R.VII.A.9. f.270r.
(3) Y.H.C. R.VII.A.9. f.274v.

South Block House in Hull under separate warrants.(1) On July 4th his wife Anne was imprisoned at York for refusing to conform when urged to do so by the Commissioners.(2) She was listed as a prisoner in the Kidcote at York on July 18th,(3) and again on July 29th, 1580.(4)

At the beginning of November 1580 two friends of Anne Cooke stood as sureties for £20 each to enable her to be released under bond. The conditions of her release was that she should return to prison within six weeks after the birth of her child, she being then pregnant, and that while she was at liberty she must stay in her own house and not meet other recusants nor try to persuade anyone to recusancy. Further the Commission stipulated that the child when born must be baptised according to the Book of Common Prayer.(5) No entry in the Commission Act Book records whether this was done or not, and she disappears from those pages, thereafter.

The next record of Anne Cook comes from the Quarter Sessions held in January 1583, when she was indicted for five months absence from church and found guilty. The clerk noted that she received punishment according to the statute, which in her case most probably was imprisonment and not the £20 fine. She appears on the Recusant Roll 1592, by then a widow, as a convicted recusant; there is no mention of her paying the fine nor of seizure of goods or lands.(6)

---

(1) Y.H.C. R.VII.A.9. f.275r.
(2) Y.H.C. R.VII.A.9. f.278v.
(3) Y.H.C. R.VII.A.10.f.3r.
(4) Y.H.C. R.VII.A.10. f.8r.
(5) Y.H.C. R.VII.A.10.f.60r.
(6) C.R.S. XVIII, p. 42.

Her husband, Ambrose, was still a prisoner in York Castle as late as 1585, when on December 16th he was set free for a period of a month.(1) The record for the Hilary Term 1586, when Cook should have appeared before the Commissioners according to the conditions of his release, contains no mention of him.(2) And on that uncertain note his case ends in the High Commission Act Books.

The fourth case was that against Margaret Thwaites and her husband John Thwaites wsquire, of Martin in Ainstie Wapentake. She was listed as a recusant by the City Council in November 1576 and before that body pleaded that her conscience would not let her attend service and that there was nothing in the church that she liked.(3) The Commissioners called her husband before them in July 1577 to answer for his wife's recusancy. He protested that he had "travailed earnestlie with his wief to perswade her to conformitie" but had failed to change her mind. He agreed to pay the fine for her and to allow a curate to visit her at home and to say divine service there.(4) In October following, he paid 40/- to the public notary Mr. Fothergill, and this was distributed to the poor of Marston parish by John Collan and Richard Thomson, two collectors.(5)

In April 1578 Margaret Thwaites was too ill to come to court to answer for her continued recusancy and her case was deferred.(6) Her husband appeared for her on May 26th 1578 and swore that he had paid

---

(1) Y.H.C. R.VII.A.11. f.39r.
(2) Y.H.C. R.VII. A.11. f.40v.-47v.
(3) Y.C.R. Class B.26 f.100v.
(4) Y.H.C. R.VII.A.9. f.92r.
(5) Y.H.C. R.VII.A.9. f.108r. and 117r.
(6) Y.H.C. R.VII.A.9. f.146v.

£4.14.0. for every Sunday and Holyday since October 1577 on which Margaret had been absent from service. The money had been handed directly to the Churchwardens of Marston parish and not in court. This the Commissioners doubted, therefore they ordered him to produce proof that he had paid the money.(1) Furthermore he was told to pay all future fines into the court and not to the churchwardens. On June 30th he brought in a certificate "de pecunia per eum soluta et de distributione euisdem inte pauperes parochiae de Marston sub manibus gardianorum de Marston."(2) This satisfied the Commissioners, but left Margaret's recusancy unchanged.

The Commissioners put her in the custody of Alderman Broke in July 1580(3) and a little later into the Castle as a prisoner.(4) Later that year she was allowed out on bond with the order that her husband should try to reform her. He came into court on April 3rd 1581 to admit failure in this respect and his wife was committed once more to prison.(5)

Four years elapsed before the Commissioners dealt with her again; then it was to release her from prison with three people going surety for her to the amount of £100. This was a temporary respite from prison for four months, from October 1584 to February 1585.(6) This was extended for another two months, on February 3rd 1585.(7)

As so frequently happens in these records the case stops abruptly

---

(1) Y.H.C. R.VII.A.9. f.149r.
(2) Y.H.C. R.VII.A.9. f.157v. The record states that he paid 2/- for every occasion of non-attendance by his wife.
(3) Y.H.C. R.VII.A.10. f.7v.
(4) Y.H.C. R.VII.A.10. f.10r.
(5) Y.H.C. R.VII.A.10. f.94v.
(6) Y.H.C. R.VII.A.10. f.279r.
(7) Y.H.C. R.VII.A.10. f.290r.

and no further reference to the fate of Margaret Thwaites is to be found. Whether she continued in prison or died there, or conformed, or was allowed to lead a life of quasi liberty on bonds we do not know. Certainly, while the Commissioners were dealing with this case they showed their determination to fine and imprison repeatedly in order to break her resistance.

The case of Lucy Plowman and William her husband, a milner, of St. Peter the Little's parish York, ends with similar abruptness in the records of the High Commission. She was certified as a recusant by the City Council in 1576.(1) She said on examination by the Mayor, that she avoided services because she liked not the priest nor the sacrament, presumably meaning the communion service. Her husband paid fines for her in 1578, to what amount is not recorded, though previously he had refused to do so and had prevented the churchwardens from seizing his goo s in default of payment of the fines.(2)

In 1580 on July 18th Lucy was listed as a prisoner in the Kidcote for religion by order of the Commissioners.(3) She continued to hold firm to her opinions when questioned by the Commissioners,(4) and for her obstinacy was removed from the Kidcote prison to the Castle on July 29th.(5)

After this transfer her case receives no further mention in the

---

(1) Y.C.R. Class B.26 f.96r.
(2) Y.C.R. Class B.27 f.89v, f.93r, f.105r.
(3) Y.H.C. R.VII.A.10. f.3r.
(4) Y.H.C. R.VII.A.10. f.6r.
(5) Y.H.C. R.VII.A.10. f.9v.

Act Books, though both she and her husband continued to be recusants for many years afterwards. The Quarter Sessions records for 1590 give us a glimpse of them as recusants presented at the sessions held in July of that year.(1) What happened is not recorded. They were both listed as recusants in a certificate of recusants and non-communicants drawn up by the City Council in February 1599.(2) Thus we know of their continued stay in York and of their refusal to conform, yet the High Commission seems not to have troubled them for many years. Their disappearance from its records was as sudden as the first mention of them; in this way the Commissioners handled some of their offenders.

The case of Thomas and Alice Oldcorne of St. Maurice's Parish is almost identical with that of the Plowmans. Thomas Oldcorne was accused of recusancy before the Commissioners on January 12th, 1576, and went to prison for his obstinacy.(3) His wife in November of the same year was certified by the city authorities as a recusant.(4) The Commissioners dealt with her in July 1580 and upon her repeated refusal to go to church, they committed her to the Kidcote on Ousebridge.(5)

Then the Commission records were silent about her and she next appears in the Quarter Sessions Records in 1585 accused of a series of absences from church over the previous year.(6) She was eventually put

---

(1) Y.C.R. Class F.V. f.168v. Sessio Generalis. July 1599.
(2) Y.C.R. Class B.31. f.400v.
(3) Y.H.C. R.VII.A.8. f.173r.
(4) Y.C.R. Class B.26. f.96r.
(5) Y.H.C. R.VII.A.10. f.2v, f.4r, f 8r.
(6) Y.C.R. Class F.III. Sessio generalis. 11th January, 1585; 8th March, 1585.

in prison in April 1583.[1] For how long or with what result we do not know; but her husband was still listed as a prisoner for recusancy in January 1599.[2] The Oldcornes had felt the hand of the Commissioners on them but only for a period of five years, and with Thomas Oldcorne they achieved no change of heart.

The last case which is to be traced in the Commission Act Books is that of Margaret and John Clitheroe, butcher, of Christ's Parish in Monkeward. Margaret was listed as a recusant in 1576 by the City Council.[3] Eight months later, on July 5th 1577 she and her husband were examined by the Commissioners. Margaret refused to go to church and John refused to pay the fines for her. She was sent to prison at the Kidcote and he to the Castle until they should conform.[4] Throughout 1577 the Commissioners could not decide what to do with the husband,[5] but finally by February 1578 he was released from prison. His wife was released under the condition that she was to return to prison after Easter and in the meantime John was to pay the fine of 2/- for every Sunday and Holyday, during that time, on which Margaret was absent from service.[6] This grant of freedom was extended in April until the end of June,[7] and again until Michaelmas,[8] with the same conditions, her husband paying 2/- for every absence from church.

---

(1) Y.C.R. Class F.III. Sessio generalis. 26th April 1583.
(2) Y.C.R. Class B.31. f.400v.
(3) Y.C.R. Class B.26. f.98r.
(4) Y.H.C. R.VII.A.9.f.94r.
(5) Y.H.C. R.VII.A.9. ff.99r, 101r, 105r, 151r.
(6) Y.H.C. R.VII.A.9. f.158r.
(7) Y.H.C. R.VII.A.9. f.146r.
(8) Y.H.C. R.VII.A.9. f.160r.

On October 6th, 1578, John Clitheroe paid 50/- into the court and was released from any other sums he might owe. He entered on a new agreement for the coming year, to pay fines for his wife.(1) This was altered on April 8th 1579 when the Commissioners decreed that he was to pay "weekley twelve pence from this day forward to the Lord Maior of the Citie of York ... untill such time as further order be taken herin."(2)

In the face of Margaret's refusal to go to church, reiterated in October 1580,(3) her freedom was out short and she was sent as prisoner to the Castle in York. Seven months later, April 1581, John Clitheroe entered into a bond for £40 which gave his wife release from the Castle until six weeks after the birth of her child.(4)

Her story is continued in the Quarter Sessions Records for 1582-3. She appeared several times for various periods of recusancy and was ultimately put in prison for her offences in March 1585.(5) Meanwhile John Clitheroe was answering to a default of a bond he had entered into on behalf of his wife before the Commission Court.(6) He had to forfeit £40, but because of his poverty this was reduced to a fine of 40/- which he paid on April 15th, 1585. That was the end of the High Commission's activities in the Clitheroe case, though later, 1586, Margaret was to be dealt with by the Lord President and the Council of the North for her association with catholic priests and attendance at Mass.(7) That trial led

---

(1) Y.H.C. R.VII.A.9.f.165r and f.185r.
(2) Y.H.C. R.VII.A.9.f.212v.
(3) Y.H.C. R.VII.A.10. f.51v.
(4) Y.H.C. R.VII.A.10. f.101r.
(5) Y.C.R. Class F.III. Sessio generalis. 3r August 1582; Sessio generalis, 8th March, 1585.
(6) Y.H.C. R.VII.A.10. f.199v.
(7) The Troubles of our Catholic For fathers, J.Morris, 1877, iii.p.409-452

ultimately to her death, on her refusal to plead, but with that the High Court was not concerned. It had tried in its own way to make her conform to the state religion, and had failed.

From these eight cases the working of the High Commission is clearly seen. What penalties it could, it did impose. The frequent use of long periods of imprisonment dispel any doubt about its determination to stamp out all opposition. Yet the almost casual way, to judge from the Act Books, in which these cases were begun and ended offsets this note of rigorous zeal. Admittedly in the period after 1581, the civil courts could impose the £20 fine, which diminished the Commission Court's importance. That may account for the tendency to drop cases in 1583 which had been pursued for five or six years with such persistence.

Whether successful or not the Commission showed itself tireless in combatting recusancy between 1577 and 1580. It has already been stated that over those years the volume of recusancy business before the Commission court rose rapidly, reaching its full measure in the second half of 1580.(1) The Act Books from mid-July, 1580, onwards, show a truly astonishing picture of reforming zeal and prosecution. To complete our assessment of the High Commission's place in the pre-1581 scene, that peak period must now be studied. It was so important that a copy of its proceedings in July and August was sent to London for the information of the Privy Council.(2)

---

(1) Y.H.C. R.VII.A.10. ff.3r.-89v.
(2) P.R.O. S.P.12/141/28.

The opening session of this special drive against recusants was held in the presence of the Archbishop of York, the Lord President of the North, the Mayor of York and many other ecclesiastical and legal dignitaries. It took place in the cathedral in York on the morning of July 18th. Seventeen prisoners for religion from the Kidcote, and another twenty-one from the Castle[1] were present and a sermon was preached to them in which they were exhorted to yield,

> but they were so farre from yeldinge to any Godly mocion, that some of them by stoppinge their eares, some by coughing and unquiet behaviour,never gave any attention to what was saide, neither would as muche as saie the Lordes Praier after the said preacher, beinge earnestly required by him so to do. (2)

In the afternoon the court was held in the Common Hall of the city, and the hearings began without any further delay. The account sent to the Privy Council differs from the actual record of the proceedings in the Act Books. It was a simplified version of what took place with some omissions, the Act Books are used here as the more authoritative source.

There were three sessions,the first on July 18th, a lesser one on July 19th and a full session again on July 29th. The Commissioners dealt with the 21 prisoners from the Castle and the 17 from the Kidcote by returning them to prison upon their public refusal to conform.[3] They examined a further 24 people, some at each of the three sessions. Of these they committed 10 to prison; 11 were allowed a period of liberty

---

(1) Y.H.C. R.VII.A.10. f.3r.
(2) P.R.O. S.P. 12/141/28.
(3) Y.H.C. R.VII.A.10. f.3r.

under bonds for various sums, mostly £100, and in the time granted they promised to attend church and receive communion; 2 promised to conform immediately and were dismissed without bonds; against 1 there was no judgement recorded.(1)

On August 1st the Lord President, the Earl of Huntingdon, accompanied by the Bishop of Chester, went to Richmond and held a session of the Commission court there on August 2nd.(2) Mr. Sothebie preached a zealous and learned sermon "at the which was presente a sclender audience," and immediately after that the Commissioners took the bench and sat in judgement. They then called the recusants before them "Whereof some appeared but the most parte were absent and came not."(3)

Processes had been sent out to 17 recusants of the neighbourhood, but only 4 appeared in court in answer to the summons. Of these, 3 conformed and one, a woman, was put in jail in Richmond. The rest sent in a variety of excuses; they were either sick, or away from home when the process was served; in one instance the servants of the man summoned reviled the messenger and refused to take the process, thus it had to be left on a table in the hall; in another house the doors were shut fast. The Commissioners were disgusted with such behaviour and threatened that they would not leave the archdeaconry of Richmond safe in its opposition but would proceed as best they could against all recusants.

---

(1) Y.H.C. R.VII.A.10. ff.3v.-10r.
(2) P.R.O. S.P.12/141/3. This Session was not recorded in the High Commission Act Book, but it was clearly a Commission court; "The forme and effecte of the Lord Presydente and the Bishopp of Chester and other her Highness' Commissioners for causes ecclesiasticall, their proceedinges at Richmond the second daie of August,1580." This is the heading to the document
(3) P.R.O. S.P.12/141/3.

Leaving this threat behind them the Commissioners moved on to Beverley on August 5th and held court in the Common Hall there, after a sermon by the Archbishop of York in the main church.(1) Nine gentlemen took out recognisances for £100, promising to conform themselves and their families by October.(2) Two others were commanded to appear the next day, one entered a recognisance for £100 and the other was committed to custody. On August 6th four more recusants promised to conform by October and took out recognisances for that purpose. Seven men already in prison at Hull, for recusancy, appeared and refused to conform and were re-committed to prison.(3)

In this way the Commissioners went from place to place dealing with the recusants of Old Malton on August 8th and 9th; with those of Ripon on August 10th and 11th. They were at Skipton on August 12th and at Wakefield on August 15th and 16th.(4) In all, in these four towns, they dealt with 52 recusants,(5) the majority of whom promised to conform in the future and were bound to certify by October that they had done so.

On August 18th the Commissioners began to retrace their steps and returned to Ripon. Before examining their return circuit the following table gives an analysis of what they had done between July 18th and August 18th, 1580.

---

(1) Y.H.C. R.VII.A.10. f.10r.
(2) Y.H.C. R.VII.A.10. ff.10v., 11r.
(3) Y.H.C. R.VII.A.10. ff.12v.-15r.
(4) Y.H.C. R.VII.A.10. ff.14r.-22r.
(5) Y.H.C. R.VII.A.10. f.15v. The Act books omit an account of the trial of 18 recusants at Ripon, 7August 10th,which is given in P.R.O. S.P.12/141/2 This group of 18 has been included in the total 52.

1580. July	18th		38 Recusants recommited to prison	
			10 Recusants committed to prison	
	19th	York	11 Entered bonds to conform and certify	
			2 Dismissed	
	20th		1 No judgement	Total 62
August	1st	Richmond	3 conformed	
	2nd		1 committed to prison	Total 4
August	5th	Beverley	14 entered bonds to conform and certify	
	6th		7 recommitted to prison	
			1 committed to prison	Total 22
	8th	Old Malton	2 committed to prison	
	9th		10 entered bonds to conform and certify	
			1 dismissed	
			1 no judgement	Total 14
	10th	Ripon	1 committed to prison	
	11th		18 entered bonds to conform and certify	
				Total 19
	12th	Skipton	6 entered bonds to conform and certify	
			4 dismissed with warning to continue	
			in conformity	Total 10
	15th	Wakefield	7 entered bonds to conform and certify	
	16th		2 dismissed	
			1 warned to communicate	Total 10
				Total 141

The return circuit included Ripon, Beverley, Malton, Bishopthorpe, Skipton, Wakefield, Southwell, Nottingham and York. The Commissioners divided their labours, only three were necessary to form a court; thus sessions were held simultaneously in several towns. The work of the Commissioners is synopsised in the following table. It covers the period August 18th to December 22nd 1580. The Commissioners re-examined many of those whom they had dealt with during the period July-August 1580; they also started proceedings against recusants presented to them by juries which they had appointed on their first visits in each place. Consequently the volume of business was greatly increased.

The return circuit of the High Commission 1580

August	22nd	Ripon	3 committed to prison 3 entered into bonds to conform 4 warned to conform 6 no judgement - absent	Total 16
	22nd	Beverley	2 entered bonds to conform 2 dismissed	Total 4
		Old Malton	6 entered bonds to conform 1 already under bond at York 1 committed to prison 2 absent - no judgement	Total 10
	24th	Bishopsthorpe	2 entered bonds to conform 1 dismissed - had conformed	Total 10
	25th 27th 29th	York	1 committed to prison 1 released from prison 2 entered bonds to conform 1 certifies reception of communion	Total 5
	31st	Skipton	8 entered bonds to conform 1 enjoined to receive communion 1 to show proof of marriage	Total 10
September	1st 2nd	York	1 entered bond to conform 1 released from prison on bond	Total 2
	2nd	Wakefield	6 entered bonds to conform 2 committed to prison for contempt 1 certified conformity' 11 absent - no judgement	Total 20
	2nd	Ripon	No recusant cases	
	5th 6th	York	1 committed to castle 1 bound to appear from day to day	Total 2
	7th	Southwell	6 entered bonds to conform and certify 8 dismissed as conformable 1 very sick, could not appear	Total 15
	7th - 28th	York	9 entered bonds to conform and certify 3 certified as having conformed 1 committed to the Castle	Total 14

(continued)

October 1st - 3rd	York	16	Certified attendance and communion	
		1	Certified attendance only - ordered to certify reception of communion later	
		1	forfeited his bond	
		1	bond renewed for a further term	Total 19
3rd - 31st	Michaelmas Term			
	York	56	Certified attendance and communion	
		27	Certified for self and family, but wives bound to certify next term.	
		7	Due to certify, did not appear.	
		39	Entered bonds to conform and certify.	
		19	Dismissed no case against them.	
		2	Certified but bound again to certify.	
		7	Committed to either Castle or Kidcote.	
		8	Prisoners from Hull re-committed.	
		4	Churchwardens dismissed on promise to collect 12d fine in future	Total 149
2nd	Beverley	7	entered bonds to conform and certify	
		4	dismissed as conformable	
		1	committed to prison	
		1	due to certify, did not appear	Total 13
	Nottingham	6	certified attendance and communion	
		1	certified in absentia	
		1	deferred to York	
		1	entered bond to conform and certify	Total 9
5th	Wakefield	49	entered bonds to conform and certify	
		6	dismissed, as simple, old and dutiful	
		1	dismissed, no case	
		1	certified attendance and communion	
		1	case deferred	
		1	agreed to Baptism of his child	
		1	retracted words against religion	Total 60
6th	Wakefield	22	entered bonds to conform and certify	Total 22
December 20th	Wakefield	16	entered bonds to conform and certify	Total 16
22nd	Ripon	8	entered bonds to conform and certify	
		1	conformable - dismissed	
		2	enjoined to receive communion	Total 11

Total of cases for the circuit - 400.

By far the greatest number of cases were those in which the recusants agreed to enter into a bond to conform by a certain date, usually the first day of the Hilary Term 1581. This was the aim of the Commissioners, not to fine or imprison, but by show of force against a few to prevail on the rest to conform. To achieve this they were prepared to wait for a long time and call the recusants before them for fresh warnings and persuasion.

Consequently it was not until the Hilary Term 1581 that the full effect of the drive against the recusants, begun in July 1580, was registered in the Act Books. Between January 16th and March 21st there was a vast amount of business for the Commissioners to handle. In that Term, 205 certificates of conformity were exhibited to the court and accepted. They included not only the male head of a recusant family, but the wives and children also. However temporary or superficial such a conformity might have been, at least it was a partial victory for the Commissioners.

There were, of course, those recusants who had promised to conform and did not; 60 such were recorded in the Hilary Term, but the record does not give information about what was done with these defaulters. The fact that their names were recorded with the failure to certify against them, and nothing further, suggests that the Commissioners were inclined to wait and try again. Automatic forfeiture of their bonds cannot be assumed, only 5 instances of forfeiture were recorded. The following table gives an analysis of the work before the court early in 1581.

Analysis of the High Commission's recusancy cases
in the Hilary Term 1581

January 16th	York	45 certified conformity	
		10 due to certify failed to attend	
		4 bonds renewed for a further term	
		4 forfeited their bonds	
		1 in prison and unable to certify	Total 64
17th	York	64 certified conformity	
		15 due to certify failed to attend	
		5 renewed their bonds for a further term	
		1 bond forfeited	
		1 woman committed to prison	Total 84
17th	Ripon	50 certified conformity	
		32 due to certify, failed to attend	Total 82
17th	Craven	45 certified conformity	
		5 certified for self but not wife	
		11 due to certify, failed to attend	
		1 committed to prison	
		1 bond renewed	Total 61
February 1st -27th	York	1 certified conformity	
		2 due to certify, failed to attend	
		2 committed to prison	
		1 to produce a perfect certificate	
		1 entered bond to conform and certify	Total 7
March 3rd-21st	York	4 entered bonds to conform and certify	
		1 bond renewed	
		1 bond for release from prison	Total 6
			Hilary Term Total 304

While the High Commission had been hard at work under Huntingdon's direction, the City Council in York had not been idle. John Dineley was replaced by Hugh Graves as Mayor in 1578 and throughout his year of office there were repeated attempts to enforce the 12d. fine.

On May 7th, four ~~residents~~ citizens were charged with preventing the

churchwardens from taking their goods in answer for their wives' recusancy. All four agreed to pay a fine for such action, how much was not specified in the House Book.(1) In June the Mayor and Council ordered the churchwarden of several parishes to account for their failure to levy a fine or seize the goods of 12 citizens for recusancy.(2) They were commanded to collect all fines owing for the past eight months and to report on June 11th. There was a meeting of the Council on June 11th but no record was made of any interview with the Churchwardens nor of receiving from them a written certificate.

Huntingdon as Lord President of the North applied pressure on the Mayor by issuing a commission under the royal signet at York on June 16th, 1578.(3) By this the Mayor was to make out a periodic certificate for the Lord President of what was done each month against recusants. The certificate was to list the offenders and record the penalty they had suffered, conformity to the laws of religion was to be insisted on. The churchwardens were to make a weekly account to the justices of the peace.

Besides recusancy, the constables, churchwardens and specially appointed honest persons were to certify the state of vagrancy, the incidence of false rumours, the activities of night walkers, the prevalence of dishonest houses, the use of the long bow and the harbouring of priests. To do this a group of 285 people were named by the City Council.(4)

---

(1) Y.C.R. Class B.27. f.90r.
(2) Y.C.R. Class B.27. f.95r.-95v.
(3) Y.C.R. Class B.27. f.98v.-99v.
(4) Y.C.R. Class B.27. f.101v.-102v.

It was a most elaborate scheme of supervision but the results were not spectacular; like so many other royal commands this seems to have faltered in application. On August 27th the certificate as required was drawn up and scrutinised by the City Council, but tantalising to record there is only a blank page in the House Book, where presumably a copy of the certificate was to have been inserted.(1)

A new line of attack was produced in November 1578. Then the City Council agreed that "all suche persons as utterlie refuse to come to churche shall not be allowed /to be/ Inholder, brewer or tipler within this cittie or suburbes therof wherbie to gain any proffit or comoditie within this same cittie."(2) A few days later this resolution was reaffirmed,(3) and on December 1st, 1578, a vintner, John Standen, who had been convicted before the council of allowing people to drink wine in his house during the time of divine service was disfranchised and fined 5/-.(4)

Robert Cripling was elected Mayor on February 3rd 1579,(5) and during his year of office there was only a single incident concerning recusants recorded in the House Book. In March seven people were arraigned before the council as having wilfully absented themselves from church. They were exhort d to change their ways but they made no promise to conform.(6) They departed without any change of heart and no further action was taken against them.

---

(1) Y.C.R. Class B.27, f.108v.-109r.
(2) Y.C.R. Class B.27. f.121v. 31st November, 1578
(3) Y.C.R. Class B.27, f.122r. 26th November, 1578
(4) Y.C.R. Class B.27. f.125v.
(5) Y.C.R. Class B.27, f.138r and v.
(6) Y.C.R. Class B.27. f.144v.

Cripling was accused in March 1580 of neglecting his office as Mayor, and as a penalty for that offence was discharged for ever of his office of alderman and member of the City Council. He was disfranchised and ceased to be a freeman of the city of York. The abuse of his office had been such that he was sent for by the Privy Council to give an account of his actions.(1) Among other charges laid against him was his neglect of applying the law against recusants. On this point, the record in the House Book said:

> He during the wholle tyme of his mayoraltie did utterly neglect and omitt to putt or cause to be putt in execucion the said ordinance [to levy the 12d.] contrary to the request and admonycon of sundry aldermen and his owne promisses given to sundry of the greatest estates and magistrates under the Queen's maiestie in their parties. (2)

In addition to this behaviour Cripling had refused to live inside the city after promising to do so, he walked about without his gown and attendants, but above all "he had rated Mr. Chancellor in the Cathedral immediately after a sermon, saying it was a railying sermon."(3) In general he had a reputation for reviling the clergy and encouraging others to broadcast filthy slanders and libels about them.

The City Council was glad to be spared the wrath of the Queen, and left their former mayor to the mercy of the Lord President.

To make good the deficiency of Cripling's Mayoralty, the Council called all the churchwardens and curates before them to enquire about

---

(1) A.P.C. 25th June 1580; 7th February 1580.
(2) Y.C.R. Class B.27. f.226v.
(3) Y.C.R. Class B.27. f.226v.

the levying of the 12d. fine.[1] The new Mayor was empowered to order people to hear sermons in the cathedral and to use searchers to gather the reluctant together and lead them there.[2] Further the Council resolved that as soon as anyone was known to be absent from church, then a precept was to be served on them at their homes, by the churchwarden.[3] The precept ordered the culprit, his wife and children to go to church within ten days and to pay any fine due. If these conditions were not fulfilled then the man was to be utterly disfranchised. This was to apply to masters in charge of servants who were recusants.[4]

That was the scene in York in July 1580 and the combined vigilance of the City Council and the High Commission must have made life almost intolerable for the recusant. Only the most resolute catholics could withstand so general an attack. Had there been more Huntingdons in the royal service the story of the next ten years would have been very different. His attitude towards recusants was summed up in his own words in a letter to Lord Burghley as early as 1572. "Severytie in justyce, next to preachyng the gospell, which trwly dothe greately wante in thase partes, wyll prove the best brydele for thys people ..."[5]

---

(1) Y.C.R. Class B.27. f.228r. March 23rd, 1580.
(2) Y.C.R. Class B.27. f.251v.
(3) Y.C.R. Class B.27. f.246v.
(4) The City Records do not give any indication of how far these orders were enforced. After 1580 there is a noticeable absence of recusant business before the City Council, due perha s to the predominance of the Ecclesiastical Commission and to the operation of the statute of 1581. Betwsen 1580-85, there are only four references to recusancy in the House Books: Y.C.R. Class B. f.82; f.85v; f.129r; f.184v.
(5) P.R.O. S.P.15/21/103. Huntingdon to Burghley. 21st December 1572.

Unfortunately Huntingdon's sphere of action was limited to the North East, even Lancashire, a county equally in need of a strong hand, did not fall within his personal control. It would be most illuminating if there existed a set of records for Lancashire and Cheshire such as there are for Yorkshire. Although both these counties came within the jurisdiction of the High Commission based at York, the use of local commissions, almost unconnected with the parent body, removes the story of Lancashire from the Act Books preserved at York.

What was being done in Lancashire in 1580 can only be guessed at from the inadequate evidence still extant. A Privy Council letter to Huntingdon on June 10th 1580 informed him that because "of the fallinge awaye in religion of subjects of good qualitie and others in the county of Lancashire, and because if something is not done, then worse will follow,"(1) the Queen had granted an ecclesiastical commission for the diocese of Chester. To give added weight to this new local commission, Huntingdon's name was added to those of Chaderton, bishop of Chester, and of Stanley, Earl of Derby, the greatest nobleman in Lancashire. The grant of such a commission was a sign of the government's determination to deal vigorously with the North West, but the Earl of Derby had neither the protestant zeal nor the administrative energy which Huntingdon displayed.

The Privy Council gave the Commissioners for Chester Diocese this advice:

---

(1) Desiderata Curiosa. ed. F. Peck. London, 1732. I. iii. p.7, No. 9.

> As this defection is principallie begunne by sundrye principall gentlemen of that countie, by whom the meaner sort of people are ledd and seduced, soe it is thought meter that ... you begin first, with the best of the said recusants. (1)

Or as Burghley wrote to Chaderton on the same matter, "With the meaner sort, courtesie will serve more than argument; with the higher sort, auctoritie is a match."(2) To handle any prisoners from their sessions, the Commissioners were told that Halton Castle in Cheshire would prove a suitable auxiliary prison to the jails in Lancaster and Manchester. The Commissioners were informed of their power to impose a higher penalty than that of 12d. "upon wilfull and usuall recusants, that come not to the churche at all."(3)

Exactly how this Commission worked we do not know, though it must have been an itinerant court in order to cover the large area designated for it. Bishop Chaderton threw himself into the work with great energy; Huntingdon wrote to the Council of the devotion of the Bishop of Chester in this work, and the Privy Council congratulated him, in a letter on July 26th, 1580. He was urged to greater efforts: "And therefore we pray your lordshippe to use as little intermission in your sittings as may be; and at all times and in all places to join with your very good lord, the Erle of Derbye."(4) Burghley and Walsingham added their own personal congratulations to those of the Council, and Chaderton must have felt that he had all the support he could desire from London.(5)

---

(1) Peck, op.cit., I.iii. p.7. No.9.
(2) Peck, op.cit., I.iii. p.14. No.16.
(3) Peck, op.cit., I. iii. p.11. No.12.
(4) Peck, op.cit., I. iii. p.15. No.17.
(5) Peck, op.cit., I. iii. p.14. No.16; p.16. No.18.

Walsingham in his letter of July 31st 1580 to Chaderton added a remark which claimed royal support for this determined policy in Lancashire:

> her majestie is fullie resolved to proceid rowndly against such obstinate recusants as refused conformitie; soe as you shall not need to doubt, but from hence, to receive all good encouragement and assistance. (1)

A slightly less optimistic note was sounded in a letter to the Commissioners from the Privy Council on July 15th, 1580. It raised the matter of the collection of fines arising out of the Commission's work. A grant to collect all such fines had been made in February 1580 to a certain Nicholas Anseley,(2) and little or nothing had come his way. He had been very eager to prosecute the catholics, but he had only incurred expense and benefited nothing.(3) The poorer sort, so the Council's letter maintained, had been convicted but paid nothing, and the richer recusants refused to answer the summonses sent out by the Commissioners. The Council urged that the Sheriff should distrain upon the goods of those recusants refusing to appear in court, and from the goods seized Anseley was to recoup his losses. The incident indirectly revealed that the work of the commission was not going as smoothly as the congratulatory letter of August 21st 1580 might suggest.(4) In that letter Walsingham and Burghley praised Chaderton for a recent account of the Commission's work sent to them. They advised him not to stir up trouble over using ordinary bread instead of the old-fashioned catholic wafers for communion.

---

(1) Peck, op.cit., I. iii. p.16. No.18.
(2) A.P.C. 14th April 1580.
(3) Peck, op.cit., I. iii. p.13. No.14.
(4) Peck, op.cit., I. iii. p.19. No.20.

In a county such as Lancashire those niceties had to be glossed over and the attack concentrated on getting people to church.

What was accomplished by Chaderton and Derby and their fellow Commissioners is not revealed in these lett rs. All we know is that the machinery had been set in operation and was still working when Parliament met in 1581.

By October 1580, the Privy Council wished to know what was being done, not only in the North, but throughout England generally. To this end the bishops were ordered "to certifie such persones within their diocese as refuse to conforme them selves in matters of religion according to her Majesties lawes."(1) The entry in the Privy Council register does not say clearly what information the bishops were to supply. However, a letter on the day following, October 24th, 1580, from the Council to Chaderton, explained in some detail what was required.(2)

The Council wanted the bishops' reports to be a detailed account of recusancy in each diocese. The following questions were sent to Chaderton as a guide for drawing up his lists:

> First (upon calling unto you for your better assistance in the shire where you dwell such persons as are contained in a schedule hereto annexed) we require [you] as sone as you convenientlie may, to send for all such persons, resident in that shire, whose names you shall ether finde contained in the said former certificate, or shall otherwise understand to refuse to come to churche and not to conform themselves, in matters of religion according to the lawes, and to understand of them everie of them:
>
> Whether they doe come to the churche and behave themselves as they ought to doe?

---

(1) A. .C. 25rd October, 1560. Twenty-four letters were sent out ordering this census.
(2) Peck, op.cit., I. iii. p.24. No. 25.

> For how long a time they have forbörne soe to doe and for what cause?
>
> Howe manye there be in there household that doe the like and upon what ground?
>
> What the yerelie livinge or other value of substance and goodes of the saide principall persons is thought to be?
>
> In what place of everie shire they remaine and may be had?
>
> And where any of them hath bene,or is at this present, committed for such cause.
>
> Also to certify there names and in what places they do remayne.(1)

There is little wonder that with such a demand before them the bishops were content to send in interim reports, telling what they already knew, and promising further information later. Unofficially Walsingham dropped a hint to Chaderton on this point,

> In case you cannot make the same [the return] in all points and circumstances, so perfect as my lords prescribe, yet let it be done in the best sort you can, which I doubte not but their lordships will take in good part. (2)

Perhaps they did, but from Winchester(3) and Chichester(4) and Worcester,(5) at least, they were not easily satisfied with poor returns and inaccurate information, and fresh demands went out for this or that point to be corrected. The Council waited for the much needed facts by which to assess the situation; while they waited Parliament was prorogued for the last time, until the 16th of January 1581. With a new session of Parliament

---

(1) Peck, op.cit., I. iii. p.24. No.25.
(2) Peck, op.cit., I. iii. p.22. No.24.
(3) P.R.O. S.P.Dom.12/155/36.
(4) W.S.R.O. E.1/57/7, 29, 51.
(5) Lambeth MS. M.C.iv/199/f. 1r.

the way was open for a new statute which could provide new penalties, new powers of trial and stricter norms of conformity. Perhaps it was with something of this in mind that the Council ordered the bishops to check their returns once again; detailed information was needed on which to frame the statute.

When it came the new law for recusants was to be only a part of a statute dealing with the much wider issues in religion facing Elizabeth and her councillors. The question of priests in England, the advent of further priests, the saying and hearing of Mass, all these were closely linked with the recusant problem and had to come within the same statute. In isolating the recusant problem in our account from these other issues, it is not meant to suggest that there was any hard division in reality, but merely to see the issue as the Elizabethan councillors saw it. To them it was a question intimately bound up with a score of others; but to grapple with it, they, too,had to see it apart, a problem requiring legal rulings, methods of government, and a personnel to deal with it, peculiar to itself.

It is noticeable in most of the Privy Council documents considered in the foregoing pages that there was no question of other business; they dealt with recusancy alone. The Privy Council was the great clearing house for all sorts of information, but to gain any degree of efficiency it had to maintain a division of work which common sense would suggest. What has been examined in this chapter, is precisely that section of the

government machinery which de lt with the lay Englishman who refused to go to his parish church on Sunday. In a way, he is an artificial person, a man considered under one aspect of conduct, which, in terms of daily life, would be intricately knitted to a host of other attitudes, practices, and beliefs. No law can aim at the whole man, but only at a particular activity of his; the recusancy law was no exception to this.

Within this restricted field, what had been accomplished by the end of 1580? To judge from the welter of activity, in that year, there was no final victory. The problem was more acute than ever and the battle was still undecided. At least that was clear to the Council, and they were fighting much less in the dark than before. Whatever the gaps in the diocesan returns, they did provide a rough index of the danger. From first hand, the Council knew the temper and resolution of many of the influential recusants; from the High Commission reports they could judge what effect the threat of prison, of excommunication, of a heavy money bond, was producing. They could see that while these methods were deterring many and preventing the situation from getting completely out of hand, they had not crushed the recusants permanently.

To extend the penal code would mean involving many more officials. The bishops generally could be relied on, but beyond them lay the doubtful ranks of the justices of the peace. To tighten the law and enforce it rigorously would mean that the practical loyalty of thousands of people on a particular issue would be put to the test daily. Whatever was to be devised, it was certain that no one in 1580 could guarantee the

result. The two words which pointed to the future, for recusant and government alike, were danger and uncertainty.

CHAPTER III

The Scope, Severity and Weakness of the 1581 Act

In the Commons, on January 25th, 1581, Sir Walter Mildmay made his speech for the government, outlining the need for a subsidy and for new laws about religion. Urging the latter point, he explained why such laws were needed. He spoke in general terms of the threat to English protestantism from Rome, and instanced the Northern Rebellion and the invasion of Ireland as examples of this. Then he turned to the situation of religion within the country itself and gave what we can interpret as the government's assessment of the recusant problem, in these words:

> For albeit the pure religion of the Gospel hath had a free course, and hath been freely preached, now many years within this realm by the protection of her majestie's most Christian government; yet such have been the practices of the Pope and his secret ministers, as the obstinate and stiff necked papist is so far from being r formed, as he hath gotten stomach to go backward, and to shew his disobedience not only in arrogant wor s but also in contemptuous deeds. (1)

This was a frank admission by the government that not nly had the Act of Uniformity, 1559, failed to pro uce religious unity, but that a new statute was needed to arrest a clearly discernible movement towards

---

(1) Simon D'Ewes, The Journals of all the Parliaments during the reign of Queen Elizabeth (1682), p.286.

Roman Catholicism. Mildmay was not suggesting that there were some deviations in religious behaviour and worship which ought to be looked to, he was talking about a widespread defection from the state church. He di not spare his audience:

> How these practices of the Pope [the ministries of the seminary priests] have wrought in the disobedient subject of this land is both evident and lamentable to consider. (1)

With this he came to the core of the problem and stated plainly that the government had believed that the state of religion was all fair, only to find that there had been much hidden rottenness.

> For such impression [he said] hath the estimation of the Pope's authority made in them [the catholics] as not only those which from the beginning have refused to obey, but many, yea very many, of those which divers years together did yield and conform themselves in their open actions ... have and do utterly refuse to be of our church, or to resort to our preaching and prayers. The sequel whereof must needs prove dangerous to the whole state of the commonwealth. (2)

The decisions of Trent, the Bull, the missionary priests, these were the steps Mildmay pointed to as leading to the present danger. His friend the Earl of Huntingdon, with his experience as Lord President of the North, could have confirmed this judgement. Even as Mildmay spoke the number of disobedient subjects was increasing, and in the country houses of Yorkshire people were listening to Campion's preaching. It was without exaggeration that Mildmay concluded his speech with the warning

> ... now I say it is time for us to look more narrowly and strictly to them [the recusants], lest as they be corrupt, so they prove dangerous members to many born within the entrails of our Commonwealth. (3)

---

(1) D'Ewes, Journals, p. 286.
(2) D'Ewes, Journals, p. 286.
(3) D'Ewes, Journals, p. 287.

Such was the problem. What was to be the solution? We have the full answer to this question in the 1581 statute and the three preliminary bills which went to its making.

By February 7th 1581, the Commons had a series of articles[1] before them, which were clearly aimed at stamping out the old religion completely. It was the extremists' response to Mildmay's warning. Any reconciliation to catholicism, whether by virtue of the Papal Bull, or in the routine course of sacramental confession, was to be adjudged treason. To say mass became a felony, and to hear mass was to incur a fine of 200 marks for the first offence, and to suffer the pains of praemunire for the second. These clauses are not directly our concern, but they set the tone of the bill and prepare us for the harshness of the clauses dealing specifically with recusancy.

For absence from church a series of huge fines was proposed. A fine of £20 for the first offence; £40 and six months in prison for the second; £100 and twelve months in prison for the third, and the pains of praemunire (imprisonment during pleasure and forfeiture of lands and goods) for the fourth offence. Any recusant failing to pay these fines was to be imprisoned indefinitely until payment was made.[2]

Women recusants were to be imprisoned until they conformed. If they did not conform within their husbands lifetime, they were to lose jointure, dowry and profits of their own lands. Allowance was made for release on bail in cases of poverty where presumably there was no hope of

---

(1) P.R.O. S.P.12/85/29. Another version P.R.O. S.P.12/147/55.
(2) P.R.O. S.P.12/85/29. Articles touching a bill for religion.

financial gain for the state.

Lawyers, who were adjudged obstinate recusants, were not to be allowed to practise, and all officers in any court of law were to be deprived of their offices. Recusant schoolmasters were to be promptly suspended from teaching and jailed for two years.

Those who fr med these clauses intended that the application of the new code should be removed from the hands of the bishops and put into those of the Justices of the Peace. The Quarter Sessions and the Assizes were to handle the new fines, and no provision was made for the Ecclesiastical courts to retain even their old power under the 1559 Statute. Recusancy was to be a civil offence and interference from the bishops was excluded.

Finally there was a proposed scale of fines for non-papist recusants. This was lower than that proposed for the catholic recusants. The scale for the Protestant sectaries was £10, £20, £40, for the first, second and third absences from service, with no provision for any higher fine thereafter.

The division of fines was to be made between the Queen, the poor of the parish concerned, and the informer. There was to be no time limit in the application of the law; recusants could be charged with absence from church at any length of time after their offence. The e proposals concluded with the enlightening clause that "The said act shall be most largely construed for the Quene and against the offenders."(1)

---

(1) P.R.O. S.P. 12/85/29. In the copy P.R.O. S.P. 12/147/55, this clause has the following remark entered against it. "To be left out."

So much for the Commons' first response to the situation of 1581; even amid the alarms and fears of that year it was inconceivable that any sober statesman would allow such a bill to become law. The fines it suggeste were enormous. Beyond striking a momentary terror into recusant homes, the threat of such fines would have quickly appeared unreal. The only method of enforcement suggested in the bill was that of perpetual imprisonment. Thus the more intransigeant section of the legislature irresponsibly anticipated sending large numbers of recusants to gaol, without any hope of ever collecting the fines, because the fines were too big to be paid by any but a small minority.

Equally rashly, the bill proposed to put the whole weight of carrying out the new code on the shoulders of the Justices of the Peace. The ardent puritan magistrate was to replace the bishop and his ecclesiastical officers. Unfortunately, as the reports of 1564 had shown, the Commissions of the Peace were plentifully provided with catholic sympathisers and even open recusants. Replacements, as the bishops had noted, were not always easy to find.(1)

Moreover, these justices of the peace had no experience of handling the problem thrust upon them. They had not even operated the 12d. fine. On the other hand the bishops, who were so drastically deprived of any power to hear and determine recusancy cases, were the very people who had first hand knowledge of the intricacies of the problem. It is quite

---

(1) See Chapter I, The Recusant Problem 1558-79, pp.22-25.

clear from these considerations that it was a partisan bill, as lacking in administrative foresight as it was redolent of bigotry.

How different was the bill[1] which, at the same time, had been brought into the House of Lords. It did not cover all the points raised by the Commons in their bill, but where it did treat of the same matter it displayed an almost diametrically opposed point of view. As already shown,[2] the bishops, their officials, and their colleagues on the Ecclesiastical High Commission, had been dealing with the mounting wave of recusancy over the past ten years. This bill, therefore, was a remedy for what the bishops and such men as Huntingdon knew at first hand to be more than the sudden success of the last batch of missionary priests. These latter had brought the problem to a head; but in the bishops' eyes recusancy was something deeper, something closely allied to the problem of the non-communicant, or church papist, who had once given his support to the state church and in growing numbers refused to do so, but had not yet reached the stage where he consistently stayed away from church.

In that body of dissatisfied, catholic inclined, time serving, peaceful subjects lay the prospective converts to thorough-going Tridentine catholicism. The bill before the Lords proposed to blight this crop before it could be harvested and at the same time to attack the problem of those already gathered to recusancy by the efforts of the missionary priests.

---

(1) P.R.O., S.P. 12/147/46.

To this end, the bill aimed at giving power to the ecclesiastical courts which could be added to what they already exercised under the Act of 1559 and by virtue of the High Commission. The bill was not a new departure but the logical consequence of a policy already at work. It would have given the courts of the High Commission statutory power to fine, and to fine heavily.

It proposed the following scale of fines. A £12 fine for failure to attend church at least once a quarter, with the penalty of forty days in prison on non-payment of the fine. Further, for those who did not receive the communion at least twice a year, there were fines of £20, £40, 100 marks, and £100 for successive offences. The alternatives to these fines were 6 months, 12 months, 18 months, and indefinite imprisonment, respectively.

Under these proposals the resolute recusant, consistently absent from church and communion was subject at first to the £12 fine for his recusancy and progressively to all the stages of the penalties for not communicating. It is false to contrast the mere £12 recusancy fine of this bill with the huge fines of the Commons' Bill. The £12 fine did not stand alone. It was to go hand in hand with the fines for non-reception of communion and in turn, these combined fines were to play their part along with the ban of excommunication, the power to imprison, the right to issue bonds enjoining positive acts of conformity, which were already at the disposal of the Ecclesiastical Commissioners. The bill aimed to give that financial sting to ecclesiastical authority which

up to that time, it had lacked. It would be a whip that would catch the backs of the half-hearted papist and the avowed recusant alike.

These new powers of fining were not to be given to the diocesan courts. It was proposed that they should be put into the hands of the Ecclesiastical High Commissioners. Experience had taught the bishops and many of the Privy Council that local ecclesiastical commissions, with full powers, sitting where and when required, were by far the most effective courts. Sandys, Aylmer, Grindal, Horne, and Chaderton all knew what was the best weapon against recusancy,(1) and this bill reflects their intention to sharpen that weapon still further.

The ultimate penalty for non-reception of communion was to be £100 or imprisonment until the fine was paid. However the bishops had the good sense not to brandish this penalty of indefinite imprisonment at everyone indiscriminately. The bill allowed f r individual adjustments to be made. If the Commissioners thought that some line of action other than imprisonment would serve to reduce the offender to conformity, they were to have power to act as they saw fit.

The pla for the enforcement of communion clauses put its trust likewise in the Ecclesiastical Commission. The vicar of each parish was to keep a register of communicants, witnessed by the churchwardens and constables. The names of those not receiving were to be sent at intervals from the parish to the bishop. At diocesan level these lists were to be collected and sent on in bulk to the local Ecclesiastical

---

(1) e.g. Lansdowne MS. 33/14. Bishop Overton to Burghley on the necessity of the High Commission to check recusancy. April 1581.

Commissioners' court. At that stage, this court with its wide powers could act on the information received. The bill also laid down a fine of 40/- for any vicar who failed to keep an adequate register of communicants. In short the bill thought not only in terms of penalties for recusants, but in terms of machinery to enforce those penalties. A vicar under the threat of a fine and in the hands of the High Commission was a much more pliable instrument than a Justice of the Peace in his own division.

In the allocation of money collected from the various fines this bill further emphasised the importance of the Ecclesiastical Commission in the new scheme. One third of the fine was to go to the Queen, another third to the poor of the offender's parish, and the remaining third to the Ecclesiastical Commission in its various courts. This was to defray the cost of the increased volume of business. It was a businesslike measure to ensure that what was proposed would be financed, partly, at least.

Practicality was the keynote of this "Ecclesiastical Commission" bill.(1 It was pre-eminently workable. The fines while not excessive were heavy enough to be a real deterrent. The terms of imprisonment were of manageable duration. The administration of the law would have been in the hands of

---

(1) This is a more appropriate title for this bill than a "bishops bill." Of course neither designation is a contemporary one.

competent and experienced men. It was not an extremist measure, but the handiwork of the administrator.

Unfortunately while the details of this bill are clear, there is no information available on what support it had from the Privy Council.(1) From its provisions we may conclude that the bishops were behind it, and probably men such as the Earls of Huntingdon and Derby who had worked as Ecclesiastical Commissioners in the North, but what was the attitude of Burghley, for example, or Walsingham, Mildmay, and Bedford? As Privy Councillors they had supported, in the years immediately preceding this Parliament, a policy which more and more relied on the ecclesiastical courts to combat recusancy.(2) They had heard the lawyers' decision on the legality of financial penalties in ecclesiastical courts. They had ordered the Ecclesiastical Commission in the North to use the power which that decision acknowledged. They had urged Chaderton and the Earl of Derby to use their authority as Ecclesiastical Commissioners to the full against recusants. In short the actions of the Privy Council from 1577-81 would lead us to expect some councillors, at least, to be behind such a bill as this one proposed to the Lords. It was the logical conclusion of the policy which had received endorsement from the Council so many times. This, however, is conjecture, an the enigma remains.

---

(1) P.R.O. S.P. 12/147/8. Chaderton Bishop of Chester, 14th January 1581, had forwarded some "articles" to the Council to be "preferred by their lordships to the Parlement." These however were concerned with seminary priests, the bread to be used in communion, and fairs on Sundays, and not directly with recusancy. Under the heading "Conformitie" Cha erton remarked, "As for a generall lawe to reduce her Majestie's subiectes to good conformities, I doubtenot but Your Lordships have therein taken order alreadie." Doubtless they had, but what they decided on we do not know.

(2) See Chapter II.

Whatever its backing the bill came to nothing. Lords and Commons met to discuss their respective proposals about religion, and the next stage, as far as we know the story, was the introduction of a new bill in the Commons.(1) It was very clearly modelled on the lines of the first bill proposed by the Commons, and displayed an almost total disregard for any of the ideas which the Lords had expressed in their bill.

The new Commons' bill, the second bill, proposed a rising scale of fines for recusancy identical with that suggested in their first bill;(2) with the novelty of four hours in the pillory at full market time for the recusant who was unable or failed to pay his fine. This took the place of the indefinite imprisonment until payment, of the earlier bill, and was a penalty aimed obviously at the poorer recusants.

Receiving communion was not mentioned in this bill. Likewise the restricting of recusancy matters to ecclesiastical courts, and the directing of one third of the fines to the Ecclesiastical Commissioners, both suggestions of the Lords, were completely ignored in this second Commons' bill.

Only Assize Judges and Justices of the Peace could determine cases of recusancy. The civil courts were to be supreme and the bishops were to be allowed merely to initiate enquiries about recusancy but not to determine cases nor to fine. The fines were apportioned to the Queen, the poor, and the informer. The only morsel fed to the bishops by the

---

(1) P.R.O. S.P. 12/148/10.
(2) £20; £40; £100; pains of praemunire.

Commons was a clause safeguarding their powers under the 1559 Act of Uniformity. The ecclesiastical courts would still be able to excommunicate the recusants, or demand the 12d. fine. Beyond that they were not to go. Even this was an advance on the proposals in the Commons' first bill.

In order to ensure the reliability of the civil courts, on which so much would depend, there were clauses in this second bill debarring lawyers, all legal officers, and students at the Inns of Court from any further connection with the legal profession if they persisted in their recusancy. Eventually such offenders were to suffer the pains of praemunire; if they conformed they had not only to produce a certificate of confor ity but had to take the Oath of Supremacy.

It was a bill almost as harsh as the Commons' first attempt at penal legislation, with the added sting that it openly reject d any compromise with the bishops. From the evidence of these draft proposals and those, already examined, from the Lords, it is clear that there was by now a deep division on how to grapple with the recusant problem. The Commons were holding to their solution of drastic fines in the civil courts. The Lords wanted less fierce penalties integrated in a system of ecclesiastical supervision.

The final result was a bill which fulfilled neither expectation. On March 4th 1581, Sir Francis Knollys brought a third bill into the Commons.(1) This it was that finally became law.(2) It shows fundamental

(1) P.R.O. S.P.12/148/10.
(2) House of Lords Record Office: Statute Rolls, 23 Elizabeth, c.1. This text in addition to the clauses of the act has the following phrases written above the preamble: "Soit baille aux seigneurs." "A cest bille les Seigneurs sont assentus."

differences from anything proposed up to this date. It clung to the substance of some of the Commons' earlier proposals,but turned its back resolutely on any extension of ecclesiastical power. Its clauses on recusancy, so important, present a curiously muddled policy at variance with much that was clearly known then about the recusant question.

Let us examine those clauses in detail. In the final statute all the elaborate systems of graded fines for successive offences, with their concomitant scales of lesser fines for Puritans, vanished. Instead there was to be a single penalty for any one, over the age of sixteen, absent from church on Sundays and Holydays. The penalty applied not to a single absence but to a month of such conduct. The fine was fixed at £20 for every month of recusancy.

Of receiving communion there was no mention in the Statute. All that the bishops had devised on this matter was completely ignored. Recusancy alone was dealt with by the £20 fine.

Anyone unable to pay this forfeiture "within three months after judgement thereof given" was to be imprisoned and kept in prison until he paid. No alternative punishment was considered necessary. The sugg stion of the pillory for poorer recusants had been dropped.

Over and above the £20 fine for each month's recusancy, there was to be a further penalty in the form of a bond of £200 to be exacted from any obstinate recusa t who continued to be absent from church for twelve whole months. The local bishop or J.P. was to certify such continual recusancy into the Kings Bench whence the process was to go out for the

bond to be demanded. The bond was for the good behaviour of the recusant and was to last until the offender conformed and came to church. It was really an additional fine against the long standing recusant.

Allowance was ma e for anyone who decided to conform and cease to be a recusant. Such a person by public submission made before a bishop, or tendered during trial for recusancy at the Assizes or Quarter Sessions, could "be discharged of all and every the said offenses againste this Acte (excepte Treason and Misprision of Treason) and of all paines and forfeitures for the same."(1) This pardon was restricted to a recusant, "havinge not before made like submission on any his triall, being indicted for his firste like offence."(2) No one could use this method of avoiding fines more than once. It would have been too tempting to stage a series of spurious acts of conformity to wipe out successive arrears of fines. The act clearly aimed at avoiding that anomaly.

All convictions under this Act had to be within "one yeare and a day after everye such offence comitted." This meant that unless absence from church was regularly noted, presented, and indicted, there would be a growing number of offences unpunishable as time went on. Despite this weakness, there was no mention in the Act of any special machinery for bringing recusancy cases to the notice of the courts. Recusancy was merely added to any other misdemeanour indictable at Assizes or Sessions. The bishops had envisaged special means for operating their bill against

---

(1) 23 Elizabeth. c.1.
(2) 23 Elizabeth. c.1.

recusants and non communicants; but in the Act there was nothing more than reliance on routine administrative machinery.

In a very important clause, the Act ruled what courts were to enquire, hear, and determine offences of recusancy. The ecclesiastical diocesan courts, as well as those of the High Commission, were totally excluded from convicting recusants and imposing the £20 fine. Only Assize judges and justices of the peace in open session could operate the new law. Even in the Commons' second bill there had still been allowance for the ecclesiastical courts to initiate a case against a recusant, but in the statute the civil courts alone were to deal with every stage of the trial. It was a major defeat for the ecclesiastical courts and the end of the bishops' long struggle for increased jurisdiction against recusants.

All that this statute gave to the bishops was a clause at the very end of the Act, which reads,

> Provided also that neither this acte nor anything therein conteined shall extend to take awaye, or abridge the authorite or jurisdiction of the ecclesiasticall censures for any cause or matter, but that the archebisshoppes and bishop es and other ecclesiasticall judges may doe and proceed, as before the making of this Acte they lawfullye did or mighte have done; any thinge in this Acte to the contrarye not withstandinge. (1)

The bishops, in short, were back where they had been in the autumn of 1580, with no new powers at all.

Did the statute, then, mark the complete removal of recusancy matters

---

(1) 23 Elizabeth c.1.

from ecclesiastical courts? No; the bishops still had a finger in the pie. They could certify obstinate recusants into the Kings Bench. They could receive submissions of conformity from reformed recusants. They could still use the ban of excommunication and impose the 12d fine. Far from tidying up the judiciary this Act added to the existing confusion. Practically every public officer, justices of the peace, mayors, assize judges, bishops, and ecclesiastical commissioners had some legal right to deal with recusants. Between their various jurisdictions the Act made no arrangements for cooperation. The £20 fine, the 12d fine, the ecclesiastical censure, all had statutory approval; it was anybody's choice how they would be applied.

Before leaving the administrative clauses of the Act we must note the omission of the clauses penalising catholics in the legal profession, which had been a feature of the earlier Commons' bills. In those bills lawyers practising in any court were to be suspended if they were convicted as obstinate recusants. Similarly all officers in the law courts were to be deprived of office as well as incurring the usual fines. On this point at least the bills of Commons and Lords had been in full agreement. Indeed it was an elementary precaution to take if the law was to be rigorously a plied. In the Statute these measures were dropped. Neale remarks "That this group of clauses was dropped after the intervention of the Queen is in some ways even more impressive than the remarkable censorship of the rest of Parliament's proposals."(1) It was indeed

---

(1) J.E.Neale. Elizabeth I and her Parliament. 1953. i. 390.

remarkable when we consider the already loose provisions for implementing the Act. Not only was that religiously mixed body, the Commission of the Peace, to handle the new law, but an unpurged legal profession was to assist in its operation.

The most glaring weakness of the new penal law was its avoidance of the question, how the £20 was to be exacted. All that was laid down was a threat of imprisonment until full payment was made. It did not contain the clause providing for the pillory for poorer recusants but it relied on imprisonment as a means of enforcing payment or of punishing those unable to pay the fine. In terms of Elizabethan prison capacity this was obvious nonsense. Even the old 12d. fine had its clause, in the 1559 Act, allowing for distraint on lands and goods in default of payment. In 1581 this aspect of the problem was overlooked. It was a grave oversight which was not dealt with until six years later.

Because the £20 fine occupied such a central place in subsequent recusant policy and because it was so badly framed in the statute, we must ask ourselves how it was regarded by those responsible for its enactment. Did they anticipate an easy handling of the fine, or was it even from the beginning envisaged much more as a penalty for the few rather than for the many?

Fortunately we have the remarks of Burghley himself on this particular point. And it is well to remember that he had annotated and knew in detail each of the preliminary bills and the final statute. He could not have been ignorant of what the law said. Indeed he was well aware

of the weakness of the statute but saw that weakness as shaping a definite policy.

Shortly after 1581 he wrote a commentary on the "statute lately renewed,"(1) which he entitled, "That it is nedeful to contynew the execution of the statute against recusantes." In this he showed clearly what his interpretation of the new fine was.

He insists in this paper, written in his own hand, that the £20 fine was an extension of the old 12d. fine. It was an increase of the penalty

> ....which befor was but the some of xijd for on offence and now it is but XX^{l} for every month, which is for every Sonday, at the most, but V^{l} and so much the less as ther happen within the month other hollydays. (2)

It was a curious argument attempting to minimise the severity of the new law.

After this Burghley stated how this new fine was to be applied. "This peane is not to be levyed, but when the offendor is hable to pay it. For other wise the offendor being not hable or not willyng to paye it, is only emprisoned."(3) This was a frank admission that he regarded the threat of prison as a not very effective weapon for enforcing payment of the fine. He envisaged the fine applied only where the wealthy recusant was likely to pay it. The £20 fine in his eyes was not a general penalty for all recusants but a possible penalty to be used when it would produce results. It was to strike at the leaders, not the mass.

---

(1) B.M. Cotton MS. Titus B.III. 18. f.63r. (undated)
(2) B.M. Cotton MS. Titus B.III. 18. f.63r.
(3) B.M. Cotton MS. Titus B.III. 18. f.63r.

He we t on to remark that the 12d. fine had not been collected because it was so insignificant as to be not worth the trouble of collecting. The old fine had been too small to be effective and the new fine was too large to be exacted from all but a few. In other words no real penalty had been devised for the vast majority of recusants. Burghley, presumably, was going to rely on the crushing of the important recusants by the fine to solve the whole question. Without a wealthy catholic gentry to provide Mass centres and to harbour priests; without the support which a continued leadership would give, Burghley calculated that recusancy would quickly be a spent force.

More informative and detailed than Burghley's comments is a document entitled "Orders Touching Recusants"(1) which from its contents was subsequent to the 1581 Statute, and reads like an administrative analysis of the same. It set out a scheme on how to apply the new law, given the basic assumption that most people would not be able to pay the full £20 fine.

This document divided the recusants up into various groups. There were six categories with the following descriptive titles:

"Such as are well able to paye."

"Such as are able to paye but parte."

"Such as have no landes but are valued in goodes."

---

(1) P.R.O. S.P.12/156/17, incorrectly dated 1580. It is not addressed to anyone, nor signed. From the fact that there are several blanks left, it can be concluded that it is a proposal rather than an order of the Privy Council finally decided on.

"Such as have no landes nor goodes."

"Wifes of husbandes conformable."

"Widowes."(1)

Having grouped the recusants thus, these "orders" state how each group was to be dealt with. Naturally those in the first category, those well able to pay, were summarily written off as to be made to pay "for avoidinge of imprisonment."

Those with lands and able to pay only part of the fine were to pay one half of their yearly livings, if their annual income from lands did not exceed £10 per month. Presumably those with more than £10 per month were put in the first category. Those with goods but having no lands were to have their goods valued and then on this valuation were to pay (as part of the fine) at the rate of "a fifth parte of everye hundred."(2) Those without lands or goods were to have any armour they might possess taken from them. They themselves were to be held in custody by some unspecified officer in every parish, and they were to attend at every Quarter Sessions, being present uring the suit of charges.

Recusant wives of conforming husbands were treated as their husbands' responsibility. The husbands who were able to meet the fine were to pay £10 per month for their wives; that is half the penalty. Wives of men not able to pay the fine were to be imprisoned until their husbands agreed to pay at least £5 per month. Wives of men not having lands but valued

---

(1) P.R.O. S.P.12/156/17. Obviously a rough draft of proposals for the Council and hence not always consistent, some details contradicting others.
(2) P.R.O. S.P.12/156/17.

in goods were to pay 40/- per month or the wife was to be imprisoned. The really poor recusant did not figure in this scheme.

This document is significant as an attempt to get at the actual meaning of the statute. It was an endeavour to interpret the law in some workable way. And it is noticeable that whatever fractions of the total fine were assigned to the various groups, the point of departure of all these assessments was the fact that very few were likely to meet the whole fine, month by month. On this Burghley in his commentary and the author of these orders were agreed. They both looked at the clause concerning fines in the statute and concluded that Parliament had passed a highly defective law.

As a condition for not paying the full fine the recusant was to be subjected to supervision. This varied from group to group. The first class paying the twenty nobles to the Queen and to the poor, were to dwell near London, not to go out of the country, to avoid all priests, and not to keep any servants of household officers who were themselves recusants. Similar conditions applied to the other groups but in their case the place where they had to dwell was left blank. What in fact we have here is a suggestion very similar to the system of release on bonds which the bishops had been practising before 1581. The only sanction against the recusant who did not keep these conditions was the threat of being subjected to the whle fine. Under this scheme the full fine would have featured as the ultimate sanction against a recusant who had resisted all other arrangements and not as the immed'ate penalty for a single month's

absence from church. However different from Parliament's intention, such a plan was realistic.

So far we have examined two contemporary interpretations f the 1581 statute, which attempted to see it as workable. Now we must look at the comment of those who were anxious to make the Act work as feebly as possible; namely the catholics. Had we no evidence of such activity it would be correct to conclude that catholic lawyers must have examined this new law to find what flaws they could. It was of the nature of the situation that they should do so.

Happily several catholic commentaries on the statute are extant. The most detailed one among them is entitled "A briefe advertisement how to answere unto the Statute for not coming to church both in law and conscience, containing three principall points."(1) It is the work of a legal mind; someone who knew the Act in detail and was familiar with the way recusancy cases were heard.

This catholic commentary is divided into three questions.

The first is "What is to be said in law to that common demand, doe you or will you goe to the Church"; secondly ... "whether the matter of the statute for not coming to church can be found by inquisition of a jury";(2) thirdly "how a catholique maie most safely answer both in duty and conscience unto this question, do you go to church ..."(3)

The first question is dealt with at some length under four sub-headings: The general line of argument is that the question "do you or will you go

---

(1) P.R.O. S.P.12/156/16.f.1r. Another version: S.P.12/156/15.
(2) P.R.O. S.P.12/156/16.f.1r. These questions are proposed in the heading to the document.
(2) P.R.O. S. .12/156/16. f.4v. This question is proposed thus in the body of the discourse, but differently in the heading of the document.

church" is a leading question and ought not to be answered. The statute makes it clear, so the author argued, that what has to be shown is a clear proof of a voluntary act of recusancy committed in the past by the accused. The burden of that proof rests with the informer and whoever made the presentment. The recusant is well advised to refuse to offer any information on the matter, for

> every subject living under protection of the law, is in this point to crave the benefit of the law, that according to the purport of that statute just proof might be made of his refusall or recusance and in no wise to steppe one iote [iota] from this sure hold and advantage given by Statute, much less gawle himself to the pikes of his own confession, not necessarily required. (1)

Further, no one ought to incriminate himself in a penal matter, "especially when the penalty is so greate."(2) As to saying what the recusant could promise about his future actions, this commentary held that such speculation is valueless. It is a matter "whereof neither he [the recusant] can perswade himself of any certeinty, nor the lawe can take any certaine inquisicion by due proofe."(3)

However the point could arise should the recusant, in conscience, make a declaration of his religious convictions, and thereby display the full extent of his disobedience to the law. The catholic lawyer advises him that he is under no such obligation. His reason is rather unexpected. He argues that the Statute has, with set purpose, removed this offence

---

(1) P.R.O. S.P.12/136/16. f.1r.
(2) P.R.O. S.P.12/136/16. f.1v.
(3) P.R.O. S.P.12/136/16. f.1r.

from the ecclesiastical courts and made of it a purely civil offence. Hence a recusancy trial is in no way a r ligious trial, in no w y does it involve the recusant's private religious convict ons. There might have been some obligation on the recusant, if he were before an ecclesiastical court, to give a full account of his con cience. Here it is not so; he is before a civil magistrate and may enjoy "all such benefit and advantage as the same law by express words and plain intent and mea ing limiteth and appointeth."(1)

Moreover the recusant is to avoid making any general statement on not going to church for fear he should give scandal by appearing to be a person who refuses to worship God at all, like a heathen. And secondly he is to avoid explaining why he does not go to church because it would be extremely difficult to embark on such a s eech without falling into the fault of speaking against the religion established. On all counts silence is urged as the best reply to the question "Do you or will you go to church?"

So much for the recusant's position. Now our lawyer turns to the jury and tries to answer the question can they fail a true indictment according to the Statute. The indictment must be framed, he maintains, in the same words in which the statute enunciates the misdemeanour. Now the statute lays down a general negative.(2) That is, it states that a person is to be charged who has not frequented any church or place of usual

---

(1) P.R.O. S.P.12/136/16. f.1v.
(2) 23 Elizabeth.c.1. "every person above the age of XVI yeares which shall not repaire to some churche cha pell or usuall place of common prayer ... shall forfeit ..." i.e. a particular parish church is not specified.

prayer, anywhere in England. Such an indictment would extend further than "the certain knowledge" of any jury. The jury could not eliminate the possibility of the accused having been to church in some church somewhere else. They could present only that a recusant did not come to a particular church. That is less than the Statute demands. This is an error which our commentator urges his recusant friends to make use of, if they can: especially anyone "that hath not been commorant or abiding in his own county, where he hath dwelling, or one having no dwelling place, or not dwelling in a county for the space of moneths supposed in the indictment."(1)

Finally this important question is dealt with, can a catholic answer falsely about his attendance at service? This would arise if none of the flaws already suggested had helped the recusant to escape conviction. The lawyer envisages the position where the recusant is cornered and cannot avoid the question about going to church. May he answer with a lie? He may not. Rather, at this stage, putting his trust in God, he must make a clear statement of the weighty causes that keep him from church, "protesting withall, that willinglie he speaketh not, but compulsion by their authoritie and of dutie and due obedience to answer ther demaunds."(2) In giving his reasons for absence, the recusant is to avoid any statement which will lead anyone to see in him any "perverse and undutifull affection in matters of loyall subjection and allegiance."(3) It is sound advice to give, but difficult to follow.

---

(1) P.R.O. S.P.12/156/16. f.4r.
(2) P.R.O. S.P.12/156/16. f.5r.
(3) P.R.O. S.P.12/15 /16. f.5r.

Another similar pamphlet commenting on the statute attacks its enforceability from another angle.(1) The law aims at making people go to the services established by the Act of Uniformity, argues this writer, and not to anything else. In practice there is such a diversity of doctrine, no two preachers are of the same mind, that the services are in no way uniform. In short the law is enjoining people to attend what frequently is not there to be attended, namely a specific service as set out in the Book of Common Prayer. No one can be compelled to attend any other kind of service. The law expressly forbids it. The recusant is then to plead that he goes not to church because the service legally stipulated is not to be found there. It is an amusing attempt at wriggling out of the grasp of the law. How effective it was we do not know. As with our earlier commentator's suggestions, this idea is proposed, perhaps, more as a delaying tactic rather than as a fool-proof objection to the law.

How wi ely these ideas were circulated we cannot tell. From the endor ement of our copies we know that Walsingham was aware of their c ntents,(2) and hence the Privy Council. If such advice helped the recusants,it also helped the government to see the weaknesses of its own mea ure and the pattern of recusant defence.

With these legal interpretations in mind, and not neglecting Burghley's comments, what was really the significance of this statute?

---

(1) P.R.O. S.P.12/156/14. This is only a fragment of a longer pamphlet.
(2) P.R.O. S.P.12/156/15. Endorsed: "To the right honourable Sir Francis Walsingham knight, principall secretary to her Majestie." Also P.R.O. S.P. 12/156/16.

Even with its many weaknesses of framing and despite the lack of agreement about it between the bishops and Commons,it decisively brought against the recusants the weapon of a heavy money fine which was never again to be abandone whatever the difficulties of conviction and exaction. It was a financial attack on the richer catholics mounted by the civil authorities. By attacking catholics through their pockets it faithfully followed Aylmer's classic advice, but it differed from his plan in that the bishops were not to command the attack either through the High Commission or their own courts.

The statute faced frankly the failure of the seventies to withstand the move towards catholicism, but it was no more than a first step towards a solution. The law was one which would depend heavily on Privy Council reinforcement and supervision for any appreciable result. The study of its a plication is really a study of the Privy Council directing and chastising local officers, drawing heavily though ironically on the help of the ecclesiastical authorities, and itself intervening directly to enforce the law. The strength of the statute was the strength of the Privy Council's determination to make it work.

CHAPTER IV

The Privy Council and the 1581 Statute, 1581-83

The new law had to operate in a situation complicated by past policies. It had not created a new class of offenders, nor a new offence. On the contrary, it dealt with a long standing offence against the crown and consequently its scope was at first limited by the ideas which bishops, sheriffs, justices of the peace and parish officials had already formed about recusants and recusancy. The 12d. fine had been disregarded in many places and now the Privy Council had to educate the royal servants in the shires into thinking of the new statute as a law which was not to be neglected. Consequently the operation of the 1581 Statute was slow and uncertain until by process of trial and error those responsible for working it had grown to think of recusancy in a different way. Step by step, the Privy Council can be seen schooling and directing every sort of official to play his part in making the new law work.

There was no sudden burst of activity on the part of the Privy Council. On the contrary, in the Summer of 1581 the government decided to release the prisoners then held for religion. The jails were so crowded that on May 7th 1581 there was a general release, under bonds, of those who could raise such sums varying from £20 to £100 as guarantees of their good

behaviour and availability for examination when required. This applied to all recusants who had been committed either to prison or to private custody.(1) Throughout the Privy Council records there is evidence of this policy continuing from May to November.

On June 4th the Council sent a letter to the bishop of Norwich ordering him to offer the recusants who were still in prison, in his diocese, the offer of release under bond which they had been employing since May in the London prisons. If the recusants refused this offer, the Council directed that the bishop of Norwich was to present his recusant prisoners with the alternative of going to church or suffering the full penalties of the new statute.(2) In other words the release under bond was a temporary measure to relieve administrative congestion prior to the full application of the new law. However, the government did not wish to give the impression that there was to be a general slackenin of supervision over the recusants, encouraging them, perhaps, to think that the new law was to be an empty threat. Thus on 31st August a letter was sent out from the Council to the sheriffs of fourteen counties,(3 the Lord President of the North and the Lord Mayor of London instructing these officers that the conditions of release were to be closely observed by the recusants.(4) They were not to move about freely but stay in the places which their bonds specified so that they could be found when needed for further dealing.

---

(1) A.P.C. 7th May 1581.
(2) A.P.C. 4th June 1581.
(3) The counties were: Hereford, Shropshire, Bucks, Southampton, Staffs., Sussex, Somerset, Devon, Dorset, Oxfordshire, Lincoln, Middlesex, Berks, Wilt
(4) A.P.C. Ultimo Augusti. 1581; P.R.O. S.P.12/157/51.

Meanwhile the law had gone into operation at the July assizes in the various circuits. At least indirect evidence points to this conclusion. Among the Hatfield papers there is a list of estreats of fines: the information sent from the assize court to the exchequer to announce what money was due to the crown after a case had been concluded.(1) This list of estreats of fines referred to recusancy matters, and in giving the account of what people had been convicted of absence from church, the date of the assizes at which the convictions were made was also given. The cases were mostly dated for July or August 1581. The following is a summary of the cases recorded in this document:

8 recusants convicted at Winchester, 28th August, 1581
1 recusant convicted at Salisbury, 30th August, 1581
11 recusants convicted at Newgate London, 20th December, 1581
16 recusants convicted at York, 17th July, 1581
4 recusants convicted at Carlisle, 31st July, 1581
4 recusants convicted at Norwich, 9th January, 1582
4 recusants convicted at Lincoln, 22nd September, 1581

48 recusants convicted in 7 counties.

This cannot be taken to be a complete account of what was happening throughout England, but it at least shows that the law did go into effect very soon after it had been promulgated. The July assizes 1581 was the earliest opportunity on which it could have been applied, allowing for the necessary time lag for assembling presentments and indictments from the parishes concerned. It must be remembered that the indictment had to

---

(1) Hatfield MS. Cecil Papers 283/1.

record in detail when and where the offender had failed to attend church. The general statement that a certain person was a recusant was not adequate information on which to base a trial. The convictions recorded in the document quoted stated clearly the length of time the recusant had been absent from his parish church, for that period only was judgement given.(1)

Elsewhere the law was also going into operation in July 1581, but not always with success. On September 5th the Privy Council wrote to the judges on circuit in Herefordshire asking them about the events at the July assizes at Hereford.(2) According to this Council letter, the bishop had sent a list of recusants to the judges before the assizes were due to begin. This was a formal presentment of offenders and on it the clerk of the assizes should have proceeded to frame indictments. In fact, so the Council's record has it, the bishop had heard no more about the matter from the judges in question. The clerk of the assizes had carried everything away with him, the original list and any judgements made on it. The Council, therefore, was writing to the judges to find out what had happened and to make them produce the bishop's list, which was needed for further use. In short, the bishop was doing his part to make the law work, but the circuit judges were not doing theirs.

The bishop of Hereford had trouble with not only the itinerant judges, but with the sheriff, Mr. Blunt. Four gentlemen, Harley, Scudamore, Singer and Gommond, had been excommunicated by the bishop, and were supposed

---

(1) The result of these cases, namely whether the fines were eventually paid, is discussed in Chapter V.
(2) A.P.C. 5th September, 1581.

to be prisoners of the sheriff. Instead they had full liberty and no action was taken against them as it should have been in accordance with the writ de excommunicato capiendo which had been issued. The bishop had recourse to the Privy Council and that body wrote to the sheriff ordering him and his two predecessors in the office of sheriff, Mr. Cecil and Mr. Baskerville, to appear in London to give an account of their conduct towards such recusants.(1)

The bishop of Hereford was not alone in his endeavours to make the civil courts really active against the recusants. In Stafford in December 1581, the Privy Council had to intervene to support the bishop there against local indifference to the new law.(2) The bishop had written to the Council telling them how he had worked hard to draw up a list or certificate of recusants in his diocese for use at the last assize. The grand jury, when presented with this list as an indictment of the persons named on it, made their own selection of whom they would bring a billa vera against. According to the bishop, the jury deliberately passed over some of the worst and most notorious recusants. The Privy Council therefore ordered the sheriff of Staffordshire and the justices of the peace to see that the entire jury involved in this scandal appeared at the next quarter sessions. There, they were to admit their fault, "done unto her Majestie in not fynding the said Recusantes according to the Bushoppes certificate."(3) The Council was of the opinion that such open

(1) A.P.C. 5th September, 1581; The Council to the bishop of Hereford, and to the Sheriff.
(2) A.P.C. 4th December 1581.
(3) AP.C. 4th December 1581.

contempt for the law which had been shown would only encourage others to similar action. This they could not allow.

There was scarcely a county which did not require su ervision from the central government. A letter to the sheriff and the justices of the peace of Middlesex from the Council in December 1581 reveals the state of apathy there towards the law. The Council complained that

> whereas sythence the late Statute put in execucion againste the recusantes within the Cittie of London, many of those disobedient subjectes heretofore remaining in London, to avoyde the penaltie of the said Statute, have withdrawnen themselves from thence into sundrie places within the countye of Middlesex where there are at this presente abyding and by remissence of the justices of peace of the said countie are suffered, as their lordships are informed, to lyve in their disobedience without daunger of the Statute ... (1)

This using of Middlesex as a refuge from the law was to stop, the Council insisted, and the local authorities were ordered to proceed to the indictment of all the recusants in the county in accordance with the law.

The bishop of Winchester apparently had greater success in his part of the country, for the Privy Council wrote to him, on 11th September 1581, commending him for his activity against the recusants.(2) This letter urged him to go ahead and present, indict and condemn the offenders according to the law. Moreover, if he knew of any recusants outside his diocese, he was advised to send their names and dwelling places to the Council, which then could take such action as was necessary. In Lincolnshi

---

(1) A.P.C. 24th December 1581.
(2) A.P.C. 11th September 1581.

the influence of two brothers, Robert and William Tirwight, was the cause of so many who had previously attended church ceasing to do so, hence the Privy Council had to interfere. Once again it was the local bishop whom they chose to carry out the examination of the two recusants,(1) and before the end of the year the offenders were in prison in the Fleet, London.

No better example of the Privy Council's attitude towards the implementation of the new law can be found than their letter to Chaderton, bishop of Chester, written on 28th May 1591, scarcely two months after the statute had become law.

The letter opened with an explicit reference to the last session of Parliament and the bill then passed about matters of religion. The statute was thought necessary because of "suche mischeifs and inconveniences as otherwise might happen, if everie one might be suffered to doe what himself listed" in religious observance. Chaderton had not been at Parliament, hence the Council were writing to him explaining most fully the purpose and meaning of the new law against recusants. He, of course, was instructed of his part in operating the law.

> Her Majestie ... hath willed us to require your Lordship forthwith, upon the receipt herof, to make or cause to be made diligent search and inquirey (as well accordinge to your former certificate of recusants, as by other the best meanes that yow can) what persons there by within your diocesse which doe, at this present, r fuse to come to the church, and to behave themselves as by the said lawe is required. (2)

---

(1) A.P.C. 17th October 1581.
(2) Peck, op.cit., I. iii. p.51. No.51.

Without any doubt, the full burden of seeing that the new law was put into force was placed squarely on Chaderton's shoulders. The Council's instructions went on to tell him what he should do in the face of outright refusal on the part of the recusants. He was to take or cause to be taken

> ...witnesses in writeinge, both of the warnynge soe geven unto them and there refusall, under the hand of the parson and curats and some other honest persons; which we pray yow, in everie shire within youre diocesse, to preferre unto the Custodes Rotulorum and to the Justices of the Peace at there next Sessions, so as the sayd persons may be indicted and ordered as by the saide lawe is appointed. (1)

Thus did the Privy Council envisage the law in operation; indictment of the recusants collected at parish level by the local minister, handed on to the bishop for him to draw up into a general list for his diocese, and this list used at the quarter sessions as the basis of proceedings against those named in it. In detail the advice to Chaderton was quite elaborate, but there is no reason to suspect that this was in any way unique. The pattern was the same behind the evidence, so far examined, for all counties, whether Lancashire or Lincolnshire, Herefordshire or Hampshire.

Everywhere the Privy Council's orders went, it was the bishop who was the central figure in the scheme of things. Though the new law had not put that emphasis on ecclesiastical courts which the bishops had desired, nevertheless the Council still regarded the bishops as the most knowledgeable in recusancy matters and thus the most capable of making the act work. It was the bishops who were to provide the information on which

---

(1) Peck, op.cit., I. iii. p.51. No.51.

the civil courts could act and thus eventually convict people under the £20 fine. It was the bishops from whom the Council drew its own picture of the state of recusancy in any shire and from them it expected reports of what was being done at the assizes and the quarter sessions. In the letter cited above, Chaderton's instructions were concluded with the warning that he was to keep the Privy Council informed of everything he did. And about a month later it was to Chaderton, the bishop, that the Council sent its letter of congratulation because some action had been taken to put the law into force.(1)

Furthermore this letter of congratulation contained the heartening news that the Council was contacting the bishop of Coventry at Lichfield to order him to search for recusants whom Chaderton had reported as having fled out of the Chester diocese. Thus did the Privy Council use the news from one diocese to promote action in another. The act of parliament as framed against the recusants hinted at none of this machinery, but without it the penal clauses would have been written in sand.

To complete this review of the cooperation between the Privy Council and the bishops it is necessary to quote the entry in the council register for 1st April 1582 - a little over a year since Parliament had passed the law.

> This daie were signed/letters directed to all the bishoppes in certaine their several dioceses within this realme to returne certificates against the begininge of the next Easter Terme of all such persones as sithe the end of the last session of Parliament refuse to come to the churche and being therof laufullie convicted doe nevertheless not conforme themselves according to a minute remayning in the Counsell chest. (2)

---

(1) Peck, op.cit. I.iii.p.54. No.55.
(2) A.P.C. 1st April 1582.

The statute had laid down that every recusant who continued to refuse to come to church for a full twelve months was to be certified by the ordinary of the diocese or a justice of assize or justice of the peace as a continual offender.(1) The certificate, according to the statute, was to go to the King's Bench Court, and thereupon the recusant would be liable to be bound, with sureties to the sum of £200, to good behaviour. And this was to be over and above the monthly forfeiture of £20. The Privy Council instruction to the bishops was probably an attempt to collect names for this line of action to be started. It is significant that while the statute stated that the bishops as well as the lay magistrates should certify such long-standing recusants, the Privy Council in fact requested the bishops to undertake the task.

These instructions to certify the recusants who had persisted in recusancy for more than twelve months went out to all the bishops. A letter from the Council to the bishops in the principality of Wales, 27th May 1582, proves that the Welsh bishops had responded to this general directive.(2) However the response was not very reassuring. The Council expressed its alarm to the Welsh bishops that their returns had shown such great number of recusants, and, what was worse, that most of them had not been indicted and convicted according to the law. The bishops in England must have submitted their returns at the same time, for there are extant some lists of recusants drawn up on 27th April 1582, in response

---

(1) 23 Elizabeth. c.1.
(2) A.P.C. 27th May 1582.

to an order from the Privy Council.[1] The first of these refers to the diocese of Ely and the second to the diocese of Chichester.

The list for Ely diocese was drawn up by two delegates of the chancellor of the archbishopric of Canterbury because at this date the see of Ely was vacant. The delegates gathered their information from the ministers and churchwardens and some people whom they described as enquirers in each parish. They listed 12 parishes and 21 names, with a further list of 9 names from 5 parishes in the Isle of Ely. It is clearly a very imperfect return and could not have pleased the Privy Council, which was awaiting an exhaustive account of recusancy, diocese by diocese, and parish by parish. What was produced, if the Norfolk list was a fair sample, was a scattered collection of parishes with an odd name here and there noted down. Two at least in Ely diocese were said to be of the family of Love and therefore in no way catholic recusants. In another two cases, the churchwardens declared that the recusants named had left their parishes and of their whereabouts the wardens knew nothing. Moreover two wealthy and important recusants as Ferdinand Paris and John Rookwood, well known to the Privy Council already, were noted as being absent from church for the past twelve months in the same way that one of Paris's servants was. The list gives the impression that those supplying the information had no clear idea of what the Privy Council was seeking to find out. Like so many lists it seems to be merely a collection

---

(1) Hatfield MS. Cecil Papers 238/1.

of names which the local officials felt would meet the demand from London, if not completely, at least sufficiently well to avoid the charge of contemptuous disobedience.

The list for Chichester diocese was divided between the two archdeaconries, Chichester and Lewes. From the Chichester archdeaconry, 51 names were submitted, and from Lewes, 55; but in neither list was it explicitly stated that those named had been indicted and convicted for recusancy nor even if they were long-standing recusants, though many of the names were those of recusants who had appeared in earlier episcopal lists.

A third list is extant, that sent by John Piers, bishop of Salisbury, to Walsingham in July 1582.(1) In this list the bishop specified that he was including the names of those who had been indicted and convicted and those merely indicted. The list enclosed with this letter would seem to consist entirely of people known to be recusants but not indicted - at least there were 56 names bracketed together with the remark "not indicted" opposite, and only one name with "indicted" opposite, and nine names with no covering remark at all. The parishes and hundreds where each recusant resided were given but only in some cases the value of their livings, ranging from twenty marks to £100. Also 9 recusants were certified as being in prison, presumably after conviction for recusancy.(2)

It was evidently easier for the Council to send out a demand for

---

(1) P.R.O. S.P.12/154/44.
(2) P.R.O. S.P.12/154/56. The Sheriff's certificate of recusants in prison in the county jail.

special lists with detailed information than to ensure its fulfilment.

The final result of this demand by the Privy Council for reports from the bishops was a list drawn up in 1582 under the heading "The nombers of the recusants in the counties certified."(1) Whether this list was an improvement on the first returns made by the bishops, or whether it was merely a combined report on anything and everything which had been sent in from the dioceses is not clear, now. It was an attempt to gauge the extent of the recusant problem, but the reality behind these numbers must have been almost as difficult for Walsingham or Burghley to discern as it is for the historian. The following numbers appear under the heading, quoted above, without any comment or elucidation:

> London - Middlesex, 64; Essex, 105; Kent, 22; Suffolk, 45; Norfolk, 51; Devon, 6; Cornwall, 25; York, 327; Durham, 10; Cumberland, Northumberland, Carlisle, 31; Worcester, 71; Warwick, 7; Southampton, 132; Surrey, 65; Oxford, 73; Hereford, 165; Somerset, 11; Shropshire, 50; Derbyshire, 64; Staffordshire, 72; Chester, 41; and Lancashire, 428.

The sum total given on the document was 1,959.(2)

What this figure represents it is difficult to say. According to the Council's wishes it should have been the number of those proceeded against under the new statute, but from the fragmentary reports already examined this seems most unlikely. It may have represented a list of those whom the bishops thought were the chief recusants, or the best known, or most troublesome in each locality. More probably it was a list without any single category to give it a definite significance. It was

---

(1) P.R.O. S.P.12/156/42. Endorsed, "1582. The perticuler numbers of the recusants in everie countie."

(2) P.R.O. S.P.12/156/42. This list omits the Sussex list of 86 recusants, already discussed.

another attempt on the Council's part to see the problem as a whole, but that vision was distorted by every vicar and curate who looked at his parish and made his own judgement on who were to be classed as recusants or not.

In replying to the bishops in Wales, about their report, the Council had tried to meet difficulties in the convicting of recusants with a novel suggestion.(1) From the Council's letter it appears that the bishops had said that recusants were not convicted under the statute because the justices of the peace remitted the recusancy cases from their sessions to the justices at the assizes. When, however, the assizes were held there was enough ordinary work to occupy the judges and they could not stay long enough to deal with the recusancy cases. The Council suggested to the bishops, that they should make choice of some special justices of the peace, known to be staunch protestants, and to give them the task of hearing and determining the recusancy cases at their normal sessions. According to this advice the bishops were not only to draw up the lists of those to be indicted, but they were also to select the justices and report back to the council what was achieved at the Quarter Sessions. Whether this advice was acted on or not is not known, but it suggested an almost complete reversal of the statute which had laid such emphasis on the use of the lay magistrates in recusancy matters, to the exclusion of the bishops.

Having thus instilled into the bishops the need for them to promote

---

(1) A.P.C. 27 May 1582.

action against the recusants, the Council in June 1582 issued orders to the justices of the peace in all the counties in the realm.(1) They were to proceed to indict all the best known recusants in their divisions "suche as heretofore have not ben indicted and suche as do already stand indicted, to take bondes for their appearance at the next Assises before the Justices of Assise ..."(2) Then all those thus presented were to be convicted and fined.

What remained to be done? The Council must have asked itself this question for there is a document dated 24th June, 1582, which is headed, "What remayneth yet to be don of the Principall matters resolved by Lords of the Counsell touching the ordering of recusants as well at libertie as at prison."(3) The first resolution was to inform all the justices of assizes in the country what the Council had already been directing the bishops and the justices of the peace to do. Further the Council instructed the judges of assizes to call before them the sheriffs and justices of the peace in their circuits and demand from them the names of

> the better sorte, esquires and gentlemen, ladies and gentlewomen, widdows, standing indicted and to proceed to their judgement and conviction: and further to take accompt of the proceedings of the said sheriffes and justices whether they have therin followed the course of the late statute or not, and therof to make report. (4)

With these instructions the Council also resolved to send the judges a form of indictment to be used in the conviction of recusants of twelve

---

(1) A.P.C. 20th June, 1582.
(2) A.P.C. 20th June, 1582.
(3) P.R.O. S.P.12/154/14. Endorsed "Notes of such resolutions as have ben taken by the Lordes for Recusantes."
(4) P.R.O. S.P.12/154/14. f.30r.

months standing.[1] Nothing was to be left to chance; the Attorney General drew up this indictment for use on the circuits. As far as it could, the Council was providing all the necessary advice and instructions. As well as trying to arrange how matters were to be handled at the assizes, the Council also decided to tighten up on those recusants who were at liberty on bonds. Among these resolutions,[2] there was one which proposed the appointing of special commissioners, chosen from among the justices of the peace, to call before them all the principal recusants who were at liberty on bond, to tighten up the conditions of their freedom. According to the new bonds the recusants were to be strictly limited in their movements, not being allowed to move from house to house without permission. Moreover they were to be available at any time for examination by the Council or its deputies. Those in prison in the London district were to be released under these strict conditions, but those with children, who had been sent out of England, were to be given a time limit within which to recall their children or else to be imprisoned without choice of release under bonds.

It was in these ways, in the course of fourteen months since the new law was passed, that the Privy Council endeavoured to set the machinery turning which would make the recusant pay his fine or conform. Bishops, justices on assize, sheriffs, justices of the peace, rectors of parishes,

---

(1) P.R.O. S.P.12/154/15.
(2) P.R.O. S.P.12/154/14.

their curates and churchwardens were all involved and by an endless stream of directives and exhortations the Council hoped to keep them up to the mark. No part of the complex machinery was reliable, thus the Council was for ever demanding reports from all those different servants and hoping thereby to have information to hand by which it could make good local deficiencies. Whatever the difficulties, one thing was clear; that the Council was determined that the recusancy clauses of the new statute should not fall into the neglect that had overtaken the 12d. fine of the Act of Uniformity.

The reaction of the Council to a report from Cheshire was indicative of its policy in 1582. The report was an account of what had happened at the quarter sessions held at Chester in May.(1) It listed four names, a gentleman's wife, her servant, a linen draper and his wife - all indicted for thirteen months recusancy. It was a somewhat meagre result, at least the Council considered it so. They wrote to the sheriff and the justices of the peace on June 20th about this matter.(2) In this letter the Council expressed its alarm at the influence the gentry had over the poorer recusants. It disregarded, for the moment, the humbler recusants, but affirmed its determination to keep the justices of the peace loyal to their duties towards the wealthier recusants. It was of course directed to the Cheshire justices, but it expressed such fundamental weaknesses in administering the statute that it is worth quoting at length as an example of a government comment on recusancy at large:

---

(1) P.R.O. S.P.12/153/65.
(2) Peck, op.cit., I.iii.p.47-48, No.51.

> Having perused the late Certificats of the recusants sent from the severall counties within the r alme, and findinge that in divers of the said counties, some are presented and not indicted; and but a fewe indicted and convicted accordinge to the late statute made for the retaininge of her Majestie's subjects in there due obedience; and perceivinge, that the obstinacy and evill example of the principall persons in everie countie doe greatlye encourage the inferior sort to continue in there disobedience; which, we supose, may, in some convenient degree, be redressed, yf the said principall persons shall first tast of the punishment appointed by the lawe. Yt is therefore thought most expedient for her Majestie's service and the state of the realme, that the said principall persons be immediatelie proceeded withall upon the said statute, and the meaner sort of people forborn concerning there judgements, untill her Majestie's pleasure shalbe farther signified. (1)

This was a clear statement that the Privy Council policy was aimed at the wealthier recusants and that for the rest no decision had yet been made, though the law provided for their imprisonment in default of meeting the fines. The local justices of the peace had to make their own judgement of who fell within the category of principal recusants. These were to be dealt with in the following way:

> And [as] for the said principall persons; forasmuch as manie of them have (as yt appereth by the certificats) refused to appere upon there indytements (havinge bene called thereunto by order from yow the Justices) her Majestie meaninge to geve expresse chardge unto the Justices of Assise to proceede to there judgement and conviction at the next Assises to be houlden in that countie of Chester; hath likewise commanded, that you forthwith, at your Quarter Sessions to be holden presentlie after Midsomer, doe call before you all the said principall Recusants (being of the qualitie of gentlemen and upward; and ladies and gentlewomen, widowes) and to take bounds and suerties of everie of them for there personall appearance at the said Assises ... (2)

Those who refused to appear were to be outlawed and the justices were warned not to pass over any recusants but to proceed against all

---

(1) Peck, op.cit. I.iii.p.48. No.51.
(2) Peck, op.cit. I.iii.p.48. No.51.

who fell within the category set down in this letter. The Council was suspicious that all was not well, for, in December 1581, a warning had been sent to these same Cheshire justices telling them that their negligence in recusancy matters at their Quarter Sessions was well known and that they must cooperate with the local clergy to draw up indictments.(1) In this letter, the Council pointed out that the statute had given authority to the justices of the peace expressly to combat recusancy more effectively, it would make nonsense of the law if the justices proceeded to ignore their duty.

What was the result of this unceasing supervision by the Privy Council? It is clear enough that the letters went out to the counties, but what happened to them is much more difficult to judge. The extant records of judicial activity are sparse and those we have furnish us with a fragmentary picture. There are two reports from judges on circuit which outline what was going on. One of these reports was sent in to the Privy Council in August 1582 from two justices on the Northern circuit.(2)

The judges in their report said that they were following instructions which they had received from the Council to give an account of what they had achieved. Their report covered the counties of Durham, York, Cumberland, Lancashire, Westmoreland and Northumberland. In Northumberland, Cumberland and Westmoreland, they had asked the sheriffs and the justices of the peace for a list of the recusants who were to be tried under the new statute,

---

(1) Peck, op.cit., I.iii.p.40. 43.
(2) P.R.O. S.P.12/155/55.

only to find that there were no such lists. The sheriffs and justices of the peace denied that they had ever received instructions from the Council to make any preparations for the assizes. This was in flat contradiction of the Privy Council's issue of letters on 20th June 1582 to all the counties in the realm.(1) The justices of the peace in Westmoreland calmly declared that they had no recusants that they knew of, rather they thought that everyone went to church orderly as they ought. This was a suspiciously self-complacent report but the itinerant judges accepted it at its face value. Thus in three counties the total effect of the Privy Council's orders was but two convictions for recusancy, at the 1582 Summer assizes in Cumberland. At York there had been five people convicted of recusancy; in Durham there were another 5, and in Lancashire, 4. A total for the whole circuit of 16 people for a part of England which the government considered was the most recusant in England.

From Lord Chief Justice Wray there was a report on the counties of Buckinghamshire, Bedfordshire and Cambridge for the Summer assizes 1582. He declared that in those three counties not above six or seven had been presented for recusancy.(2) In Huntingdon not one recusant was dealt with. In Norfolk and Suffolk about 15 were convicted of obstinate recusancy. This was not very many and the tone of the report suggests that the judge considered it as unsatisfactory.

The only other source of evidence of how the 1581 statute was working

---

(1) A.P.C. June 20th 1582.
(2) Hatfield Cal. II. p.509. 1172. Lord Chief Justice Wray to Lord Burghley

in the period 1581-83 is the Assize Rolls for the South Eastern circuit, comprising the counties of Sussex, Surrey, Kent, Essex and Hertfordshire.(1) These assize records are very incomplete, in some cases being no more than a bundle of indictments tied together; in other cases there is a patent appointing the judges to hold the assizes, a list of prisoners, a list of justices of the peace, and a bundle of indictments. In no one instance can it be said definitely that what now remains, in a single roll for a given session, represents the total amount of business conducted at that session. Even when the documents referring to a particular case are still preserved, they are frequently in a bad state of decay. Some indictments are incorrectly mixed with those belonging to another session or even another county. Consequently from these records it is not possible to present more than a highly defective picture of what was happening at the assizes.

The earliest evidence of the 1581 act being in operation on this circuit comes from the assize rolls for Kent, Surrey and Sussex in 1582. The rest of the material before that date gives no indication of recusancy cases under the new statute.

At the Kent assizes, July 1582, there were five cases of absence from church contra formam diversorum statutorum in hoc casu nuper editorum.(2) Two of these cases, that against Mary Clifton of Canterbury, a widow, and that against Christopher Morgan of Gowdehurst, Kent, were for a full twelve months' absence from church. The indictments were made out for the period,

---

(1) P.R.O. Assizes. 55.
(2) P.R.O. Assizes. 55/23. Kent. July 1581

22nd June 1581 to 19th July 1582. Hence, although the cases were not tried until 1582, the charges against the offenders stretched back to within three months of the new act's promulgation. The remaining three cases were for six months' absence between January and July 1582. In all cases the indictment was proved true and the parties acknowledged their offence. What the final result was the records do not reveal. According to the law these recusants were liable to the £20 fine for each month of absence or imprisonment until they conformed.

The Surrey evidence shows that forty-six people, of various classes, gentlemen, drapers, yeomen, all of Southwark had been presented at the Quarter Sessions at Reigate at Easter 1582.(1) Then these cases were handed on to the Assizes in July where all forty-six pleaded guilty to charges of absence from church, ranging from ten months to two months. Seven were charged with six months absence, four with four months, and one with two months, the remainder with ten months. They were charged under both the 1559 and the 1581 statutes. Beyond the fact that they were guilty, the list containing the indictments gives no information of what penalty they suffered.

The Sussex evidence points to an earlier application of the 1581 statute than has so far been discussed. At the Lent assizes, 1582, five gentlemen were recorded as having been charged with recusancy at the Quarter Sessions in July 1581. They were presented, then, as absent

---

(1) P.R.O. Assizes 55/24. Surrey. July 1582.

from church from 18th March 1581 to 6th July 1581; that is they were charged with recusancy from the day on which the statute had received the royal assent. Four of them pleaded that they were in prison for matters of religion and therefore could not go to church. The fifth said that he lived in Southampton and not in Surrey, therefore the indictment was faulty. They were held to be not guilty of the charge.(1)

There was a further case at this Sussex Lent Assize, 1582, against a yeoman who was found guilty of 7 months absence from church.(2) The rolls from the Hertfordshire and Essex assizes gives no evidence of recusancy cases in 1581 or 1582, whether this represents the actual state of affairs or a loss of records it is not possible to say. The series is not complete; not only are individual sessions imperfect but entire sessions are missing. For example there is no record of a Lenten session for Hertfordshire in 1582.

One aspect of the working of the new law which these records adequately present is the elaborate detail which was required to secure a conviction. The indictments for recusancy are by far the most lengthy and complicated in these rolls. The following is an example taken from the indictments of the Kent assizes July 1582.

> Iuratores praesentant pro domina regina quod Johannes Beake nuper de Sancti Dunstons prope civitatem Cantuarie generosus, etatis sexdecim annorum et amplius existens, a decimo die januarii, anno regni dominae nostrae Elizabeth dei gratia etc.

---

(1) P.R.O. Assizes 35/24. Sussex. Lent 1582.
(2) P.R.O. Assizes 35/24. Sussex. Lent 1582.

> vicesimo quarto, usque decimum nonum diem Julii tunc proxime sequentis, scilicet per spacium sex mensis et amplius non accessit ad aliquam ecclesiam, capellam aut locum consuetudinem communis precationis sed abstinuit ab eisdem, ac infra totum idem tempus, predictus Johannes Beake non accessit nec conabat accedere ad ecclesiam parochialem de Sancti Dunstons predicti ubi est comorans; nec ad aliquam capellam vel locum consuetum ubi communis precatio et servicium divinum qualibet die dominica et alia die ordinate et usitata custodiri tamquam diebus festivis per totum idem tempus /nec/ usitatus fuit ibi morari decenter et sobrie durante tempore communis precationis per totum idem tempus, debuit, non habens aliquam legittimam aut rationabilem excusacionem fore absens in contempta dictae dominae reginae inde ac contra formam diversorum statutorum diversorum in hoc casu nuper edictorum. (1)

If a conviction was to be secured this, or something akin to this, had to be engrossed for each case; no wonder the justices of the peace and the circuit judges complained of lack of time in which to conclude recusancy cases.

Despite these difficulties the courts did handle some cases. In 1583 the assize records reveal no cases against recusants in Essex, Hertford, and Kent. The only reference in the Sussex rolls was to the four cases of absence already dealt with in 1582, and finally concluded at this July 1583 gaol delivery sessions.(2) Surrey alone presented a scene of some anti-recusant activity. Four people, in prison for matters of religion, were presented for being absent from church for four months, while fifty-four others, knights, gentlemen, yeomen, tradesmen and clerics, were charged with sixteen months absence. All these presentments were written on rough paper with *billa vera* on the reverse side. This meant that there were grounds for proceeding to a conviction but what precisely was done

---

(1) P.R.O. Assizes. 35/25. Kent. 1582.
(2) P.R.O. Assizes. 35/25. Sussex. July 1583

in these cases is not clear. The four in prison, charged with not attending church, had more than a score of people to swear to their inability to go to service, and presumably this constituted a legitimate excuse according to the meaning of the Act.

At the Kent Assizes in July 1583 seven people were presented for recusancy between March and July 1583, but they were charged under the 1559 Act of Uniformity and not under the 1581 act. Thus at the most they were liable to the 12d. fine, if found guilty, which, once again, the bare indictments do not reveal.(1)

Indeed it is not until the 1584 rolls are examined that any clear mention of the £20 fine is to be found. For that year the Sussex, Surrey and Kent rolls are the only ones which reveal any recusancy cases. The Sussex case concerned Robert Gage of Croydon and his wife Elizabeth, who had been presented for fourteen months' recusancy at a Quarter Sessions in 1582.(2) The case was handed on to the assizes and the indictment preserved in these records bears a footnote that the justices of assize perused a letter from Her Majesty's council that Mr. and Mrs. Gage should not be proceeded against. Unfortunately the document is torn and burnt, and there is no way of being sure if this scrawled addition to the charge was decisive in the case or not. The indictment bears no endorsement, and the words billa vera do not appear on it.

---

(1) P.R.O. Assizes. 55/25. Kent. July 1583.
(2) P.R.O. Assizes. 55/26. Surrey/Sussex. July 1584.

From Surrey there were three cases of people indicted for two months absence from church; they admitted their guilt and judgement was given that they must forfeit £40 each as a fine according to the 1581 Statute. This is the first clear mention of the £20 fine in these assize records. All three were of Southwark and had the word clericus entered after their names.(1)

At the same gaol delivery assize fifty-two people were indicted for four months' absence, twenty-nine of whom had appeared in the indictments at the previous year's assizes.(2) This group of twenty-nine along with seven others out of the group of fifty-two were found guilty and the penalty of the £20 fine was imposed on them. In all, thirty-four were liable for £80 each four months absence and two others, for £20 and £40 respectively, because they had successfully challenged part of the indictment. It could not be proved that they had been absent for the full four months.

Four further cases were recorded at this 1584 session, concerning people absent from church for one month. They incurred the £20 fine. This group of four and the group of three who had been charged with two months' absence, earlier in the same session, were all described as clericus in their indictments. They were in fact old marian priests in prison. Their names occur in the prison lists for this period.(3) Their appearance at the assizes charged under the recusancy laws is an interesting example of the application of the law even to those already held prisoner

---

(1) P.R.O. Assizes 55/26. Surrey. July 1584.
(2) P.R.O. Assizes 55/26. Surrey. July 1585.
(3) C.R.S. XII. "The Official Lists of Catholic Prisoners during the Reign of Queen Elizabeth, Part II, 1581-1602," pp.219-288. e.g. Vaux, pp.220, 230, 235; Spence, pp.246, 252, 255; Griffin, pp240; Shawe, p.240; Pounde, pp.252, 255.

for other reasons. There could be little hope of their paying the fine, less of their conforming, nevertheless they were technically recusants, being absent from church services, consequently they were indictable under the Acts of 1559 and 1581.

The Kent records for 1584 are badly preserved and very imperfect. At least seven people appeared at the assizes and were indicted for recusancy. For what periods of absence is unknown because the indictments are torn. However, all seven appear as having been committed to prison for their recusancy, presumably in view of their inability to pay the heavy fine. Imprisonment was the alternative punishment laid down by the 1581 statute.

This examination of the assize rolls of the South Eastern Circuit has taken the account of the operation of the 1581 statute beyond 1585, but for purposes of comparison it will help to follow these records to the end of 1586. In this way it can be seen how incomplete and sparse is the assize material for the whole period in which the 1581 statute operated, without amendment.

The records for the whole circuit in 1585 show a complete absence of recusancy cases, though there are eleven separate rolls, or rather bundles, of documents preserved from that year.(1) A single Essex case provides a glimpse of the 1559 Act being operated at the assize level. Richard Martin of Lamborne, a tailor, was indicted for absence from

---

(1) P.R.O. Assizes. 55/27. 1585.

church. However the indictment was specifically made out for twenty-two Sundays and eight feast days. The charge was sustained and the 12d. fine imposed; whether it was paid or whether Martin went to prison the assize records do not say.

For the following year there is again an absence of material except from the Surrey records. At the July assizes 1586, eight people were indicted and, in their absence, found guilty and proclaimed as outlaws. They were to be apprehended by the sheriff of the county and brought to trial if they could be found. A further fifty-three people were accused of recusancy, but the cases do not appear to have gone beyond the indictment stage; most probably the accused did not appear in court and this was but the first stage in the proceedings against them. The majority of them were people who had been indicted at earlier assizes at Southwark, thus these indictments were, most probably, but the routine repetition of a charge which it was considered profitless to pursue further.(1)

Apart from this, there is no record of any other recusancy cases in 1586 on the South Eastern Circuit.

Incomplete though this assize material is, it does show the way in which the statute took effect; in some instances with immediacy after the royal assent was given, in others only after a long delay. No one class of people formed the accused, not all were indicted under the new statute, not all were convicted, many were merely indicted, and of those convicted not many appear to have received judgement. It was the picture which the

---

(1) P.R.O. Assizes. 35/28. Surrey. July 1586.

Privy Council records would lead one to expect. There was not complete apathy towards the new law, neither was there excessive energy in its application. Along with the other statutes it made its way into the normal business of the assizes. It was undoubtedly unwieldly, to a great extent, because of the nature of the offence. Compared with theft or assault, it was much more difficult to prove, especially as the 1581 statute specified monthly absence and not absence on a particular Sunday or feast day.

From Staffordshire there is abundant evidence of the unsuccessful working of the 1581 statute. The Quarter Sessions records are the source of our information.(1) Writing of the contents of these records during te years 1581-1889, S. Burne states that recusancy filled a considerable amount of space on the rolls. The first prosecution on a really large scale took place in March 1582 at the assizes. Thence forward some hundreds of recusants were indicted at Stafford until the year 1586 - that is during the period when the operation of the law was in the hands of the justices of the peace as well as the assize judges. Though the volume of recusancy business was great, the result of this legal activity was not the imposition of the £20 fine.(2)

In his introduction to the Staffordshire records, S. Burne

---

(1) The Staffordshire Quarter Sessions Rolls 1581-1589. Vol. I. ed. S.A.H. Burne. The William Salt Archaeological Society, 1929.
(2) S.A.H. Burne, op.cit. Introduction, xxxii-xxxiv.

explains the reason for the absence of people paying the fine. He states "... of the several hundred recusants charged between 1581 and 1586 the great majority were never convicted," and he adds,

> This does not indicate any unwillingness on the part of Staffordshire juries to convict. It is clear that as a rule the parties never came to trial. Obstructive tactics went far to upset the whole scheme of the recent act. How far non appearance was connived at by the county officials is doubtful because non appearance was far from uncommon in cases of a totally different nature. (1)

In support of this he cites the non appearance of fifty constables of the county, even after a writ of 'capias' had been issued. The real difficulty was in the ordinary working of the law.

> It is clear, however, that the government (if Staffordshire is typical of other counties) not only did not collect the fines but were powerless to do so until the defendants had been compelled to plead to the indictments. This legal difficulty has perhaps not received sufficient stress from recent writers on the subject ... Unless a defendant appeared either voluntarily or under process and pleaded to the indictment no conviction was possible. (2)

What was the result of this inherent weakness in the law? Instead of a single speedy trial there ensued a long drawn series of writs which attempted to bring the offender into court: *venire facias*, *distringas*, *capias and respondendum*, *capias alias*, *capias plures* - finally outlawry.

---

(1) S.A.H. Burne, *op.cit.* Introduction,xxxiv.
(2) S.A.H. Burne, *op.cit.* Introduction,xxxiv.

> Judgement of outlawry was given by the coroners at the fifth court after the defendant had failed to appear to the exigent, which was a writ commanding the absent party to be demanded (exigi) from county court to county court until he be outlawed. (1)

Under this wearisome system some hundreds of recusants were outlawed in Staffordshire. In theory there should have followed loss of all personal property and profits of real estate and the liability to perpetual imprisonment. Whether this really happened is somewhat doubtful and S. Burne suggests that though many recusants were technically outlawed they appear not to have been ever within the reach of the law for punishment.

An examination of the contents of the rolls confirms the picture already sketched. The first roll is a series of presentments and indictments for recusancy covering various periods of twelve months, eight months or six months. The presentments begin in the July of 1581, thus showing that in Staffordshire, as elsewhere, the new act was quickly put into force, at least with regard to the initial stages of securing a conviction. In all, some 239 people are listed in these presentments and indictments from 1581 to 1586. Many of the names appear time and time again as the charge of recusancy was renewed against them for fresh periods of absence from church. For example Thomas Arnold, a husbandman of Ridware Hampstall, was charged

---

(1) S.A.H. Burne, op.cit. Introduction, xxxv.

with recusancy from July 24th 1581 to March 19th 1582, and again from March 18th 1583 to July 9th, 1583, from July 9th 1583 to March 18th 1584, from March 28th 1585 to July following.[1] His wife Margery Arnold was indicted for similar offences. Frances Bott of Churchington was indicted for eight different periods between July 1581 and March 1586. Agnes Kemp of Chetly was similarly accused, as were John Maclesfield of Meare, John Sherrat of Ellaston, Elizabeth Tryvin of Draycotte, James Vice of Staundon and Dorothy Heringham of Stone.

The list ranges over men and women; out of the 239 there were 117 women. As would be expected the greater part were humble folk, yeomen, husbandmen, labourers, with a sprinkling of gentlemen and esquires. They were from various places scattered over the county with Ridware Hampstall standing out as a parish of overwhelmingly catholic sympathy. It was undeniably a county of strong recusant persuasion and not merely one with here and there a pocket of resistance to the new religion.

The second roll, for all four terms of 1584,[2] is comprised of lists of people against whom writs have been issued. What precisely was the charge against them is not specified, but the names on this roll coincide with those on the lists of presentments for recusancy

---

(1) S.A.H. Burne. op.cit. pp. 57, 59, 42, 44, 52.
(2) S.A.H. Burne. op.cit. pp. 67-80.

on the first roll, thus it may be concluded that these writs illustrate the later stages of the proceedings against those people for recusancy. For example the first three lists concerned 81 people against whom was issued a capias sicut alias.(1) The next two sections dealt with 78 people against whom the court issued a Venire facias;(2) then the exigenda de novo writ was sent out against 25 people,(3) and these were duly outlawed for having failed to appear at all in court at any stage of the proceedings against them. Another set of 58 people were listed(4) as having incurred a further summonse to court by an exigenda writ and they too were outlawed after having failed to appear on three occasions previously.

The table on the following page illustrates the use of these writs against recusants selected from the 239 on the presentment rolls.

---

(1) S.A.H. Burne. op.cit. pp. 67-71.
(2) S.A.H. Burne, op.cit. pp. 71-73.
(3) S.A.H. Burne, op.cit. pp. 77-78.
(4) S.A.H. Burne, op.cit. pp. 79-80.

	Presentments	Capias, writ	Venire Facias	Exigenda	Outlawed.
Thomas Arnold, husbandman	6	1	1	1	X
Margery Arnold, his wife	6	1	1	1	
John Bobet, yeoman	7	1	1	1	X
Walter Barbar, gentleman	6	1	1	1	X
Frances Bolt, spinster	8	1	1	1	
Edmund Birche, yeoman	5	1	1	1	X
Thomas Chadulton, clerk	5	1	1	1	X
Margery Collyer, spinster	7	1	1	1	
John Draycott, esquire	2	1	1	1	X
Elizabeth, his wife	5	2	1	1	
John Eke, husbandman	7	1	1	1	X
Thomas Froste, husbandman	5	1	1	1	X
Richard Fitzherbert, gentleman	7	1	1	1	X
William Hood, yeoman	6	1	1	1	X
Dorothy Heringham, widow	6	1	1	0	
Thomas Mower, yeoman	8	1	1	1	X
Ralph Macclesfield, esquire	5	1	1	2	X
Margaret Macclesfield, spinster	4	1	1	1	
William Pooker, husbandman	7	1	1	1	X
John Sherrat, husbandman	6	1	1	1	X

N.B. The women were not proceeded against when it came to the point of outlawry.

* * * * *

CHAPTER V

Exchequer Receipts and the 1581 Statute, 1583-86

What was the result of this anti-recusant activity on the part of the Privy Council? A partial answer to this question can be given by examining the exchequer receipts for this period and seeing how much money accrued to the government from the fines imposed by the statute. Whatever else may have been the effect of the 1581 Act, the exchequer receipts show that at least money was coming in to the crown.

The daily account of all payments into the exchequer gives us in detail the information we need. The clerks of receipt entered every item of payment into the Pells Receipt Books, and among those items is preserved for us the record of payments of recusancy fines. Guiseppi describes the Receipt Books in these words, "These books contain copies of all the Teller's Bills as thrown down by them upon the table of the Tally Court on the payment of revenues into the Exchequer."(1) From these books the Receipt Rolls were engrossed and accepted as the formal record of receipts. That is to say, the Receipt Rolls duplicated in much less manageable form the information contained in the receipt books. It is

---

(1) M.S. Giuseppi, A Guide to the Manuscripts preserved in the Public Record Office. 1924. i. 182.

these books therefore which we shall use as our source of information about the payment of recusancy fines.

Each book covers the payments made in a single exchequer term. Thus for any twelve months there are two books, one of which runs from Michaelmas to Easter, the other from Easter to Michaelmas. It will be seen that in this way the exchequer records do not coincide with the calendar years, hence it is impossible to say simply what the recusancy payments were for a certain year. This inconvenience apart, these records give all the information which could be hoped for.

Each receipt book contains two different types of account for the same period of time. The first account is a daily account, the second is a classified account. In the first account, every payment is entered according to the day of the exchequer term on which it was paid. The entries give the day and date of payment, the place from which the payment came, the name of the person paying in the money, the name of the person on whose behalf the payment was made, and lastly the name of the teller of receipt into whose hands the payment was paid.

The second, or classified account, gives the same information in different form. The daily receipts were sorted out at the end of each term under their various headings, for example, all star chamber fines, or receipts of a specified tenth or fifth, or receipts for the repair of Dover Harbour were collected together. Thus in this account the exchequer officials had on several successive pages all the receipts

for a term relating to a particular source of revenue. Among these classifications was that relating to recusancy. This account, in a more concise form, contained the information from the daily account. The formulae used were of the briefest and no irrelevant information was allowed to creep in. A comparison of an entry in the daily account with one from the classified account will make this clearer.

In the daily account for the 21st of November 1582 we find the following entry:

> Northants. Thomas Tresham miles C^{li} de fine super ipsum inpositum quia non accessit ad ecclesiam ubi communis oratio utitur
>
> C^{li} Stonley (1)

From this entry it is clear who is paying the fine, why, when, and to whom. In the classified account for the same term the entry comes up in this form:

> Northants. Tho.Tresham mils, quia recusavit accedere ad eccliam 21^{o} Nov....C^{li} Stonely. (2)

Thus although there is a considerable saving in words the information is in no way impaired. From the shorter account we can still learn who pays, why, when, to whom and how much.

Thus if we want to know how much the exchequer received by way of recusancy fines in any term, all that is to be done is to turn to the classified account in the second half of the Pells Receipt Book and under the heading De recusantibus accedere ad ecclesiam read the collected entries. The whole of this classified account went under the name of Abbreviatio,

---

(1) P.R.O. E.401/1852.
(2) P.R.O. E.401/1852. Abbreviatio.

a title descriptive of its concise form.

It must be remembered however, that the section relating to recusancy fines was a novelty to the exchequer and it took some time for that body to decide on the final form in which it would account for recusancy fines. The Act imposing the new fine of twenty pounds became law in the spring of 1581, but not until the Michaelmas term of 1582 did the exchequer of receipt show any sign of accounting for it. A search of the daily accounts and the classified accounts before this date gives no evidence of payments relating to the twenty pound fine.

Even after Michaelmas 1582 the clerks of receipts had not finally decided on the method for accounting for the recusant fines. The heading in that Michaelmas 1582 account was De recusantibus accedere ad ecclesiam ubi communis oratio utitur.(1)

In the Easter account 1583 the heading was altered by having the words contra formam statuti added;(2) thereby leaving no doubt about the reason for these payments. By Michaelmas 1584 this heading was again altered; the words "ubi communis oratio utitur" were dropped. The designation then took the form De recusantibus accedere ad ecclesiam contra formam statuti.(3) Thereafter this title was the invariable heading for this account in the abbreviatio.

The same clerical hesitation about the formulae to be used was shown in the wording of the individual entries within the account. At first,

---

(1) P.R.O. E.401/1852. Abbreviatio.
(2) P.R.O. E.401/1853. Abbreviatio.
(3) P.R.O. E.401/1856. Abbreviatio.

Michaelmas 1582, the words "recusavit accedere ad ecclesiam, et non frequentavit ecclesiam"(1) were entered for each item after the recusant's name. This clearly was a repetition of the information given in the heading of the account and accordingly was soon omitted as superfluous.

For a brief time, the exchequer clerks not only entered the sum actually paid to them, in their accounts, but also stated whether the sum paid discharged the whole, or merely part, of the fine owing to the exchequer. While this procedure was followed a typical entry would read:

Staff. Wo.Maxfelde de parte £240 ... 19° Octobris £40. (2)

This sort of entry can be found only in the accounts for Michaelmas 1583 and Easter 1584. It would have been useful for our study of recusancy to have had this information throughout the reign, for by its statement of what was owing to the exchequer from any particular recusant, it would have been possible to calculate the period of recusancy for which he had been convicted, as opposed to the period for which he paid his fine. The records as they stand enable us to see only what sums were actually paid into the Crown and no more.

Even this temporary inclusion of information about the sums owing to the exchequer is sufficient to show that the Crown was ready to wait for its fines and to receive payment of them in instalments. This is to be kept in mind when the totals for any period are cited, or when one term's fines are compared with those of another. What was received at

---

(1) P.R.O. E.401/1852. Abbreviatio.
(2) P.R.O. E.401/1854. Abbreviatio. Hereafter all references to the exchequer accounts refer to the Abbreviatio and not to the daily account.

the exchequer in any particular term was not necessarily the result of activity in the assize courts in the same term, rather it included the payment of current fines and of past fines, long overdue.

What then is the first picture we can draw from these exchequer accounts in the years 1581-87? As we have already noticed, there was no account of receiving recusancy fines before the Michaelmas term 1582. This delay in the flow of fines into the exchequer fits in with the picture we have of the administrative difficulties in getting the statute to work. While the Council were experiencing all manner of obstruction to their directives it was unlikely that the receipt accounts would show any signs of fiscal success. When the fines did start to come in, the amounts received were small. Michaelmas 1582 brought the crown £617-2-2. The following term Easter 1583 brought in a mere £285-0-0. These totals are the clearest comment on the limited success of the innumerable letters sent by the Privy Council to the bishops, the judges and justices of the peace. Within the next twelve months there was a startling increase in the receipts. The figure for Michaelmas 1583 rose to the highest in the whole of the period 1581-7, namely £2,256-12-8. Such a startling increase in the payment of fines needs some further explanation than that which covers the earlier two years.

Fortunately this term, Michaelmas 1583, was one of the terms during which the exchequer clerks entered the information about the sums of money owing to the exchequer as well as the sums paid in.[1] Consequently we are able to see how many of these payments were an attempt to meet old

(1) See table on p.187.

debts, as well as to pay current fines.

There are 55 entries or separate payments in this account, involving 25 people, 8 of whom made payments on two distinct occasions in the same term. The payments came from eleven counties and one city, London. The previous two terms' accounts had involved only 9 people, but these were drawn from 8 counties and one city, York. Thus while the increased fines came from an increase in the number paying, it did not arise from drawing on a very much wider area of the country. The increase came in fact from a small number of recusants in Suffolk and Norfolk and a single individual in Southampton paying large sums, for the first time. In other words, some recusants were at last made to pay the heavy fines they owed, and had been owing since the act had come into force.

The Southampton recusant referred to, Gilbert Welles, paid on the 18th November, 1585, £560 which at £20 per month represented the fines for a past 18 months' recusancy. The recusants from Norfolk and Suffolk were in a similar position. They paid their money into the exchequer in respect of fines owing, some owing as much as £240, some £90. Altogether the recusants from these two counties paid £1,171-2-0. into the exchequer. If the sum paid in by Welles is added to this figure, more than half the total payments in the term are accounted for. Thus what may appear at first sight as an overall increase in recusancy fine paying is reduced on closer examination to a local phenomenon affecting at the most three counties, and derived from back payments.

This conclusion, however, does not detract from the fact that the

returns for this term, Michaelmas 1585, do show signs of the beginning of a move on the part of convicted recusants to meet their fines in some way. Of the payments made, 21 were in part payment of larger sums owed. It is interesting to note that the range of these part payments extended from £4 to £100. Whatever the statute might have stipulated about £20 per month, the exchequer then and throughout the reign received every conceivable variation of that basic fine, with the theoretical proviso, that the remainder would have to be met at some future date.

To illustrate the system as it was working at this time, the following is the account for the Michaelmas Term 1585, the payments are dated from October 1585 to February 1584. The original is in Latim with the amounts in Roman numerals.

Pells Receipt Book. Michaelmas Account 1585[1]

Staffs.	William Maxfield - part payment of	£240.	19th Oct.	£ 40. 0. 0.
Suffolk	Edward Sulliard " " "	£240.	22nd Oct.	£ 60. 0. 0.
	Henry Everard " " "	£240.	22nd Oct.	£ 4. 0. 0.
	Roger Martin " " "	£240.	22nd Oct.	£100. 0. 0.
Norfolk	Robert Downes " " "	£220.	4th Nov.	£ 30. 0. 0.
	Humphry Bedingfield " " "	£220.	4th Nov.	£ 29.17. 0.
	Ferdinand Parris full payment of	£220.	4th Nov.	£220. 0. 0.
	William Yaxley part payment of	£220.	4th Nov.	£ 49. 6. 0.
	Robert de Grey " " "	£220.	4th Nov.	£ 40. 0. 0.
	Robert Lovell " " "	£220.	4th Nov.	£ 30. 0. 0.
Cornwall	Richard Tremayne per the sheriff		13th Nov.	£ 33. 6. 8.
Southampton	Richard Tichborne		13th Nov.	£ 40. 0. 0.
Norfolk	Ferdinand Parris		22nd Nov.	£200. 0. 0.
	William Yaxley part payment of	£ 90.	26th Nov.	£ 33. 6. 8.
	Robert Downes " " "	£ 90.	26th Nov.	£ 45. 0. 0.

(1) P.R.O. E.401/1854.

Michaelmas Account 1585 (continued)

Norfolk	Humphrey Bedingfield part payment of	£52.	26th Nov. £26. 0. 0.
	Robert de Grey " " "	£41.	26th Nov. £20.10. 0.
	Robert Lovell " " "	£25.	26th Nov. £12.10. 0.
Hertford	Anthony Throckmorton per the sheriff		25th Nov. £10. 0. 0.
Southampton	Gilbert Welles		28th Nov.£560. 0. 0.
Berkshire	James Braybrook		28th Nov. £20. 0. 0.
	Thomas Reade per Francis Yate		29th Nov.£260. 0. 0.
Hereford	John Gomonde per the sheriff		2nd Dec.£102. 5. 4.
Kent	Thomas Wilforde part payment of	£500.	4th Dec.£100. 0. 0.
Northants.	Thomas Tresham " " "	£140.	6th Dec.£100. 0. 0.
Lincoln	D..... Disney for Robert Tirwight		29th Jan. £20. 0. 0.
Suffolk	Roger Martin part payment of	£200.	4th Feb.£100. 0. 0.
	Edward Sulliard " " "	£215.	4th Feb. £50. 0. 0.
	William Drury per Thomas Sulliard		4th Feb. £50. 0. 0.
	Henry Everard part payment of	£240.	4th Feb. £15. 0. 0.
	Robert Fetter " " "	£240.	4th Feb. £15. 0. 0.
	Henry Drury " " "	£240.	4th Feb. £25. 0. 0.
London	John Halsey		16th Feb. £15. 8. 0.
			£2,077. 2. 8.

The high figure of the Michaelmas 1585 term was not maintained, and the receipts for the following two terms dropped to below a thousand pounds. For Easter 1584 it was £986-4-9[1] and for Michaelmas 1584, £840-4-2.[2] Yet despite this decline, the number of counties affected rose to 14 in the Easter term, and the number of people named was 27. The Michaelmas term was a reduction in every respect, 7 counties only were involved, and 8 people.

---

(1) P.R.O. E.401/1835.
(2) P.R.O. E.401/1856.

By Easter 1585 payments were £1,561-0-3[1] and this was virtually repeated in the Michaelmas account of the same year with the figure £1,046-13-4.[2] These payments came from 10 counties and 19 people; and 20 people and 12 counties respectively. Although revenue from fines was slowly finding its way to the exchequer, the number of recusants involved remained remarkably small.

In December 1582 the government had drawn up a list of recusants from county returns in order to assess the extent of the problem. From the twenty-two counties for which returns were made there was a total of 1,939 recusants known to be such by the local authorities, not merely suspected of recusancy.[3] Yet in five years no more than 55 appear on the exchequer books. Lancashire, on this 1582 report, was said to have 428 recusants, but only a single recusant from Lancashire, John Towneley, actually paid money into the exchequer. His name appeared in the accounts for 1584 and 1585, and in those years he paid £460. This was heavy for an individual but it was a small return from such an area. We know for certain from the report of the northern assize judges to the Privy Council, 1582, that at least four recusants in Lancashire were convicted before them in that year.[4] As would be expected John Towneley was one of them and reported by the judges in their schedule to be worth £200 per annum. With him, convicted at the same time were John Southworth rated by the judges at 200 marks per year, William Houghe, worth £40 per

---

(1) P.R.O. E.401/1837.
(2) P.R.O. E.401/1858
(3) PRO. SP.12/156/42.
(4) PRO. SP.12/155/55.

year, John Hocknell worth £20 per year. None of these three paid any fines into the exchequer. Towneley was the wealthiest of them, if we trust the report in this respect, but this scarcely seems a reason for his having paid and not the others. In the same report the judges mentioned five people in the county of York convicted before them of recusancy. One of them, Thomas Leeds, was worth 100 marks per year, yet he appeared in the exchequer account for Easter 1584 as paying £6-19-2. He was not as wealthy as some of the Lancashire convicted recusants nor as some of his own fellow Yorkshiremen,(1) yet he paid, while the others did not. Of the two convicted recusants in Cumberland, and the four in Durham, there was no mention in the exchequer accounts.

This state of affairs is underlined in a further report from Lancashire in January 1584, from a Sessions of the Peace held at Manchester.(2) The justices sent to the Privy Council a list of all the recusants "condemned according to the statute for XII monthes absence" from church. The list is divided into two parts, the first headed knights and gentlemen. Sir John Southworth and John Towneley head the list with six other names after theirs. Then follow the names of ten priests and then the section entitled common persons, which was composed of three schoolmasters, a tailor, a yeoman, a husbandman, a smith and a labourer. All these names have the sum of £240 written against them as a sign of the fines they had incurred. A grand total was given at the end of the list, £6,240, a sum which the

---

(1)PRO.SP12/155/56. Roger Tocketts was worth £100 per annum, William Lacey worth 200 marks per annum.
(2)PRO.SP12/167/40.

exchequer could never have hoped to receive, but which the local justices of the peace and the bishop of Chester seriously submitted as a report of the legal action they had taken.

Over and above those whom the justices had convicted of recusancy, there were four married women whom they considered it not good to arraign, because they were married; and seven other women whom they had been unable to bring to justice but against whose names they entered definite periods of recusancy ranging from three to nine months. Thus in this single session of the peace there were 57 people involved and a theoretical £6,240, but the only receipt the exchequer had for all this was the £460 from John Towneley.

Local justice however had taken some action against five of the principal recusants, for against the names of Southworth, Towneley,(1) Barlowe, Houghe, and Hocknell was entered the note that they were at that time committed to her Majesty's jail in Salforde. They were five of a total of thirty-two recusants who were committed to jail at that session, January, 1584.

To show further how small a fraction of the recusant population had any dealings with the exchequer, we must add to the above account another report of the bishop of Chester and the earl of Derby of a session held a little later in February 1584.(2) In this report thirty of those charged with recusancy conformed themselves, twelve others were committed

---

(1) Towneley paid his fine 26th May 1584.
(2) PRO.SP.12/168/16.

to jail, and fifteen were bound over to appear again. Such cases would of course leave no record at the exchequer for in none of them was there any mention of imposing the fine. This report dealt with the same area of Lancashire, namely that about Manchester, Wigan, Preseot, Ormskirk and Lancaster, as did another concerning recusants to the number of forty, reputed to be within parishes around Prescot. This latter report(1) was not a list of convicted recusants, but a list of suspected ones for whom presentments could be drawn up from which to start proceedings. Allowing for the fact that these various lists overlapped somewhat we can say that in the year 1584 the government had definite knowledge of 152 Lancashire recusants but only from one of these did it collect any fines.

A partial explanation was given by the bishop of Chester in his report to the council in November 1584, when he complained of the execution of justice in the area we have been considering. Only he and the earl of Derby, the bishop protested, joined in some special commission could achieve anything, because, he said, "the temporall magestrats will doe nothinge."(2) He suggested that there should be a severe ecclesiastical commission appointed. He threw further light on the difficulties of the situation when he pointed out in another letter to the Council that there were many recusants who could not be indicted for their misdemeanour because the information of the churchwardens about their absence from

---

P.R.O.
(1) S.P.12/175/21.
(2) S.P.12/165/84. f.190r. The bishop of Chester was of the opinion that without these measures there would be no general conformity and the civil peace would be threatened. How, he did not specify.

church was defective.(1) The churchwardens made only a general accusation of absence from church, not specifying dates. This of course was useless information on which to base a trial with a view to a conviction and a fine.

This picture repeats itself if we turn to Hampshire, where again we have a comment on the judicial activity in the county to compare with the results in the exchequer. There were eight recusants recorded as paying fines under the heading Southampton in the receipt accounts between Michaelmas 1582 and Michaelmas 1585. Altogether they paid £940-8-4 in fines. That was one side of the picture; the other was given in a report from the county after an inquisition had been carried out there in the spring of 1585, under ecclesiastical supervision. Three hundred recusants were presented, belonging to 65 parishes, while 28 were reported as being at that time committed to jail for their recusancy.(2)

A further report from the justices of the peace of Hampshire sent to the Privy Council in July 1585 confirmed in more general terms the findings of the ecclesiastical authorities.(3) The justices were alarmed at the state of affairs as revealed in a recent session of the peace and wrote to the Privy Council for advice on how to tackle the situation. They complained that many who went to communion last Easter (1585) were by June utterly refusing to go to church at all. Those of the lower classes

---

(1) PRO.SP.12/167/40.
(2) PRO.SP.12/160/26.
(3) B.M. Cotton MS. Titus B.III.29.

who appeared before the justices, said in their defence that they believed that it was her Majesty's pleasure that only those of the wealthier sort were to be dealt with according to the statute, while they themselves were to remain untouched. No more revealing comment on the operation of the statute can be found. What was to be done - that precisely was what the justices were writing to ask the Council?

The newly appointed bishop of Winchester was asking the same question of Burghley in the May of the following year. He was writing to Burghley on the state of his diocese which he was trying to assess before he settled down to the task of governing it. In his letter(1) he referred to an archidiaconal visitation or enquiry which he had caused to be made, saying

> I am certified that there be alreadie presented by the churchwardens, to the nomber of foure hundred, and in some one parishe 40 or 50, and yet it is thought certainlie, that by the slacknes of the churchwardens a great nomber ar/e/ omitted ... (2)

This reads very much like a reassessment of the 1583 inquisiton which we have already noted. Whether the figure four hundred or the earlier one of three hundred is accepted as a standard for comparison, there is still a wide disparity between the number accused and the number fined for recusancy.

The bishop of Winchester, like his colleague at Chester, stated that

---

(1) B.M. Lansdowne MS. 42/41.
(2) B.M. Lansdowne MS. 42/41. Thomas Cooper to Burghley. 2nd May 1584.

it would take extraordinary authority to cope with the problem. He wrote: "If it might be lawfull for me to wishe, I could desire either commission ecclesiasticall or commission of Oyer and Determiner, or both."(1) It would have to be in his hands and those of a few named by him, because if it were given to the normal justices, he protested, that they would speak very well but act very falsely, in this matter. If no extraordinary authority were granted to him, he said that it would make the recusants think that there was no real determination to repress them: a fatal conclusion if generally believed.

The same situation was repeated in other counties. The ecclesiastical records from Sussex and the Quarter Session's records from Staffordshire give ample evidence of the existence of numerous recusants, at this time, while the exchequer records but a handful of fine-payers.

In reply to the government's demand for lists of recusants in every county in 1582, the bishop of Chichester and justices of the peace sent back a list of 87 names for the diocese of Chichester,(2) In the exchequer accounts there were two names for Sussex, William Shelley in the Michaelmas account 1582,(3) and Thomas Gage in the Michaelmas account 1585.(4) Shelley paid £100 and Gage, £40.

The indictments at the Staffordshire quarter sessions 1581 July to 1584 March show that 155 people were accused of recusancy for repeated

---

(1) B.M. Lansdowne. MS. 42/41.
(2) Hatfield MS. Cecil Papers. 258/1.
(3) P.R.O. E.401/1852.
(4) P.R.O. E.401/1858.

periods during these years.(1) Four of those accused, reformed themselves and ceased to be recusants, the rest, 151, remained obstinate in their attitude. Of these, four only paid fines into the exchequer, John Draycott, Brian Fowler, William Maxfield and Erasmus Worsley. At Easter 1584 Draycott paid £44, Fowler paid £20-7-9 and Worsley paid £10-0-0.(2) In the Michaelmas of 1585 Maxfield paid £40.(3)

These samples, taken from various parts of England where the existence of records affords the possibility of a comparison between exchequer and local records, show that the exchequer was no more than nibbling at a few recusants' pockets.

Among the Hatfield papers there is an important document relating to recusant business in the Exchequer in 1582. It is not addressed to anyone but is signed by Sotherton, one of the barons of the exchequer, and appears to be an account sent to Burghley in his capacity as Lord Treasurer concerning recent action taken with recusants. The document is endorsed "Extreat of the ffines of the recusants in sondry counties."(4) It falls clearly into two parts.

The first part deals with 19 recusants, seven from Hampshire, two from Dorset, one from Wiltshire, one from Northampton, one from Pembroke,

---

(1) "The Staffordshire Quarter Session Rolls, 1581-1589," ed. S.A.H.Burne. William Salt Archaeological Society. 1929. pp.55-159.
(2) P.R.O. E.401/1855
(3) P.R.O. E.401/1854
(4) Cecil Papers. 258/1.

one from Oxford, and six from London. Against each name is written the date and place of the conviction and the amount of the fine. What we have is a copy of the estreat, which the exchequer received from the local assize court and which stated what money was owing and from whom. This information was then sent by the exchequer to the sheriff with an order to collect the same and pay it into the receipt by a certain date.

A typical entry, in our document, reads:

> Extractum ffinum et amerciamentum fforis factorum coram justiciis dominae reginae ad Assizam in comitatu Southampton in sessione tenta apud castrum Wintoniensis, XXVIII° die augusti, anno XXIII° regni Elizabethe.
> E. Ricardo Warrenford de civitate Wintonienses in comitatu Southampton generosus quia non accessit ad ecclesiam suam parochialem spacium unius mensis integri secudum fornam statuti unde indictatur - XX^li / £20 /

All the recusants named in the first part were convicted of absence from church for periods within the first twelve months after the Statute became law. Eight of these convictions were at local assizes, the remainder were at a goal delivery sessions at Newgate.

The exchequer, once informed of the convictions, took action.

> I (Sotterton) conferred with the towne clerk of London and lerned of him that Sir Thomas Tresham and the rest of the other side /i.e. overleaf/ were of abilitie in the sheres expressed in the judgement, whether / whither / I have accordingly extreated them in the sayd Hillary Term / 1582 / and the rest are extreated to the shereffs of London in the same terme. (2)

Hatfield MS.
(1) /Cecil Papers. 283/1.
(2) Hatfield MS. Cecil Papers. 283/1.

The earliest the exchequer could have expected payment was the close of the Easter term 1582. For that term, as already stated, there was no recusant payment in the receipt books. Not until Michaelmas 1582 was there any sign of payment by any of these eighteen recusants. Then it was Sir Thomas Tresham, who paid £200 on November 21st,[1] presumably for his two months' recusancy mentioned in this report to Burghley, and for three further months. Later that same term, George Cotton of Hampshire paid £40 of his £60 on February 15th 1585. In the Michaelmas term 1585, Tresham paid another £100, stated to be part of £140 which he then owed.[2] The exchequer had obviously caught up with at least one recusant. At length by Easter term 1584, four other recusants on our list began to pay some part of the fines which had been owing since Spring 1581. Twelve of the eighteen paid nothing into the Exchequer then or later. The six who did pay, had totalled £202-19-8 by the end of the Easter term 1584, and £522-16-11 at the end of Michaelmas 1584.

The second part of this document[3] presents a similar picture. It listed convictions against 7 Yorkshire recusants and 8 from the city of York itself. The fines amounted to £1,200. For Cumberland it gave two convictions against a single recusant, his fine was £80; from Westmoreland 3 convictions worth £200; from Norfolk 4 convictions worth £80; from Lincoln 4 convictions worth £260; in all 28 recusants owing £1,900.

Again, the judgements, in this section, were given for absence from church in the period March-September 1581, which confirms the fact of the

---

(1) P.R.O. E.401/1834.
(2) P.R.O. E.401/1836.
(3) Hatfield MS. Cecil Papers. 283/1.

speedy application of the Act at the assizes, in some counties. The payment of fines lagged sadly behind. Of the 28 recusants listed in this second part, seven paid money into the Exchequer by the end of the Michaelmas term 1583.

Moreover, even when payment was made, there appears to have been no uniformity. According to judgement given, Margaret Sylvester of York was answerable for £80. She paid £17-2-2 of this and no more.(1) Whereas Paris, Downes, Lovell, and Grey, all of Norfolk, owed £20 each, yet the receipts show that in 1583 Paris paid £220 to the exchequer which accounted for the £20 mentioned here and for other fines.(2) Likewise Downes paid £75 in 1583, Lovell paid £42-10-0 and Grey paid £60-10-0.(3) Clearly in these cases, the exchequer had exacted not only the fines reported to Burghley but also other fines outstanding. Indeed, these four Norfolk recusants and two more from Lincolnshire became constant fine payers into the exchequer. They had by the end of the Michaelmas term 1585 (beyond which our survey does not go for the moment) paid £1,051-6-8. Had every recusant paid as these did, what a difference the exchequer accounts would show!

This collection of extreats or certificates of convictions, which belongs to no series but by chance remains among the Hatfield papers, is useful to us because of its very fortuity. The number and type of recusant on these certificates was determined by the number of convictions which

---

(1) P.R.O. E.401/1852. 6th February 1582.
(2) P.R.O. E.401/1854. 4th November 1583.
(3) P.R.O. E.401/1854. 4th November and 26th November.

was certified by the assize courts into the exchequer in the Easter term 1582. Of these, Burghley and the barons of the exchequer decided to make an example and press for payment. Less than a quarter of them eventually paid any money into the exchequer. It was a microcosm of the resusant world; constant administrative activity but small results.

By the end of the Easter term 1585, which marks the end of the first period of attempting to apply the 1581 Statute, 55 recusants, drawn from 18 counties and 2 cities, London and York, had paid in fines a total of £6,556-3-3.(1) It was not an impressive result for four years' administrativ toil, nor did it represent that sharp attack on the recusants' pockets which had been enthusiastically desired by bishops and puritans alike.

That this was the conclusion of the Elizabethan statesmen themsdves is shown by the course of action which supplemented the routine application of the 1581 statute from 1585 onwards. If little, in some cases nothing, of the fines could be obtained, then other ways of burdening the recusants financially had to be found. The result would be the same, the recusant would be made to realise that avoiding the law did not spell financial gain, and the exchequer would benefit whether it was from a statutory fine or from other form of imposition.

The government decided,in the Autumn of 1585,to make a levy on certain groups of people to defray some of the cost of the campaign in the Netherlands. Expenditure between August and December 1585 has been

---

(1) This figure is derived from the receipts 1582-1585. P.R.O. E.401/1852-1857.

reckoned at £26,248.(1) This was the beginning of several years of growing war expenditure.(2) In November 1585 the Privy Council ordered the bishops to raise money to provide 1,000 Lances for her Majesty's service in the Low Country. The money was to be sent to Mr. Freake at the exchequer, one of the clerks of receipt.(3) This was but a part of a larger scheme which had already been sketched out in another Government minute, undated, but relating to the same events. This was entitled "Means for defraying the levying of 1000 horse," the money was to be raised from

The Recusants	5000li	
The Clergy	3000li	
The Countyes	6000li	
The City of London	2000li	
The Borough Townes	1000li	
The Strangers dispersed through the realme	2000li	Total £19,000.(4)

The recusants according to this were to make the heaviest contribution in a general scheme to help the war finances; ultimately they contributed much less than the established clergy.

The first practical step towards raising the money from the recusants was to draw up a list of those able to contribute. At first it was the bishops who supplied the necessary information. They furnished the Council

---

(1) Frederick C. Dietz. English Public Finance 1558-1641, 1932. p.51.
(2) Dietz, op.cit. p.51. 1586. Burghley dispatched £101,000; 1587, Burghley dispatched £175,000; 1588, Burghley dispatched £105,000.
(3) PRO.SP.12/184/60. Endorsed, A Minute to the bishops for a collection to be levied uppon the clergie towardes the furnishing of 1000 Lances for her majestie's service in the Low Contryes."
(4) P.R.O. S.P.12/185/64.

with an incomplete survey of the country,[1] covering nine dioceses, listing those who to the bishops' knowledge did not attend church. They named 201 gentlemen who could pay sums of £50, £25, or 100 marks. It was only a rough estimate; some names had no contributions entered against them and others had their original contribution altered.

According to this estimate the government hoped to defray the cost of 109 light horse and 109 lances. A total of £7,125.6.8. was anticipated according to the calculation of an Elizabethan clerk. This sum, if paid, would have been considerably greater than the fines received in any one year from the recusants. Among those listed by the bishops for this scheme were 27 of the 55 recusants who up to this date had featured in the receipt book of the Exchequer, the rest were not included in the scheme. However it is significant that the bishops could name 154 recusants wealthy enough to contribute, who had not paid anything in fines into the Exchequer.

At the end of October the sheriffs took over the preparations for the scheme from the bishops. They went round their counties and asked the various recusants whose names had been sent to them by the Council whether they would agree to pay or not. A letter from the sheriff of Lancashire[2] and another from the sheriff of London[3] show them doing this and sending their reports back to the Council. The recusants generally were willing to pay, but the Lancashire recusants, the sheriff had approached

---

(1) P.R.O. S.P.12/185/15.
(2) P.R.O. S.P.12/184/56.
(3) P.R.O. S.P.12/185/71.

21, were not willing to pay until they were assured that John Townley, a well known and wealthy Lancashire recusant resident in London, had agreed to pay his charge.(1) Some recusants said that they had the horses and equipment ready for the Queen's use, but they would not pay in money.(2) Others were willing to produce either the money or the horses.(3) From the various replies the Council drew up a list, county by county, of those whom the sheriffs had certified as being willing to pay.(4) This list named only 91 recusants, the bishops had listed 181. There were 16 women on the sheriffs' list, all had been men on the bishops'. The sum which the 91 recusants were to pay was reckoned at £2,310.16.8. The totals for each county were as follows:

Bucks	4 recusants to pay	£175. 0. 0.
Huntingdon	1	50. 0. 0.
Warwick	2	27.10. 0.
Oxon	10	155.16. 8.
London and Middlesex	16	725. 0. 0.
Sussex	4	125. 0. 0.
Surrey	4	225. 0. 0.
Essex	3	75. 0. 0.
Gloucester	1	50. 0. 0.
Stafford	4	125. 0. 0.
Wilts	1	25. 0. 0.
Hampshire	1	25. 0. 0.
Kent	4	175. 0. 0.
Leicester	1	75. 0. 0.
Suffolk	13	425. 0. 0.

---

(1) P.R.O. S.P.12/184/56.

(2) P.R.O. S.P.12/183/50. Leicester, George Sherley had three geldings read
12/183/45. Cheshire, John Hacknell willing to find a serviceable man and a gelding.

(3) P.R.O. S.P.12/183/65. Berkshire, Edmund Morrice and James Braybrook ready to furnish either the money or the horses.

(4) P.R.O. S.P.12/184/61.

(contd.)

York	2 recusants to pay	£50. 0. 0.
Berks.	2	50. 0. 0.
Worcester	2	100. 0. 0.
Chester	2	75. 0. 0.
Hereford	1	25. 0. 0.
N. Hants.	1	12.10. 0.
Lancs.	11	250. 0. 0.
Derby	1	25. 0. 0.

Then in November the Council ordered the sheriffs to collect the money offered and pay it into the exchequer. In Sussex, for example, on November 25th, the sheriff, Thomas Bishop, wrote to the Privy Council to say that he had acted on their instruction, and had collected the contributions set on the recusants by their lordships. He enclosed an account in detail of what action he had taken in each case.(1)

Of the 13 recusants whom he had dealt with, 6 made some payment. These were John Leeds esq. paying £50; Edward Gage of Fronfield, gentleman, £25; John Shelley, gentleman, £25; Nicolas Woolse, gentleman, £10; John Delve, gentleman, £5. Thus from Sussex the sheriff paid into Mr. Freake at the Exchequer £125. John Gage of Ferles, esquire, had already paid his contribution of £50 into the sheriff of London, a fact borne out by the sheriff of London's letter to Walsingham on 31st of October 1585.(2) What of the other 6 recusants for whom the sheriff had to answer? According to his account one was dead, two were of too "meane abilitie" to pay anything, two others were not resident in Sussex and therefore no concern of the sheriff; the last recusant listed appeared to have been wrongfully included,

(1) P.R.O. S.P.12/184/45.
(2) P.R.O. S.P.12/185/71.

for it was reported to the sheriff's satisfaction that he came regularly to church.

The government, therefore, received £125 from Sussex, excluding John Gage's £50 paid in London, in November 1585. In contrast during the Easter and Michaelmas exchequer terms of that year no more than £40 had been paid in recusancy fines from Sussex.(1) This fact is the more instructive when we reflect that the payment of the light horse levy was a frank admission of recusancy; anyone, who could, got out of it, on the grounds of not being a recusant. Such was the case of a Sussex recusant, Margaret Blackwell, resident, at the time of the levy, in London. She was charged to pay £25 and the sheriff of Sussex made search for her to levy the money. It was discovered that she was living in London and she was able to pro uce a certificate from the parson and churchwardens of St. Andrews in the ward of Castle Baynarde to prove her constant attendance at church. Local malice had put her down as a recusant, but she rebutted the charge and refused to pay the levy of £25.(2)

As the scheme went forward it revealed what a heavy demand the government had made on the sheriffs in the counties. A letter from the sheriff of Hampshire to Walsingham, a year after the scheme had ended, told of the lengths he had gone to carry out the council's instructions.(3) "I and my servauntes," he wrote, "have traveled manie tymes synce & manie waies about the countrie, besides the sending up to London ..."(4) He asked

(1) P.R.O. E.401/1838.
(2) P.R.O. S.P.12/184/46.
(3) P.R.O. S.P.12 195/2. dated, 3rd November, 1586.
(4) P.R.O. S.P.12/195/2.

Walsingham's support in an attempt to get some allowance for the charges incurred in this business. These would not be trivial, for the Council had sent down to the sheriffs lists that in many ways were out of date. It was the sheriff's part to find where the recusants dwelt, or if they had moved elsewhere, or died, or been called to London by the Council. Out of four people visited by John Snell, sheriff of Wiltshire, only one was at home; of the three others, one was in London on business, one in a London prison, and the third had not been in the county for a long time.(1) Even when discovered, the recusant was not always able to contribute to the scheme. The sheriff of Herefordshire had to report that out of five recusants he had tracked down, one was out of the country, two were in prison, and unable to pay, the fourth had only a small farm and could not pay, the fifth was a younger brother of no substance and likewise could not pay.(2)

In the face of so many difficulties the scheme might easily have run out into the sand. However, before the end of November 1585, Robert Freake, the teller at the exchequer of receipts appointed to receive the money from the sheriffs, was able to report that he had to hand £463.3.4.(3) This was collected from 7 counties only, the money from elsewhere was still coming in. By December, £729.3.4. had been collected from 12 counties.(4) After that it is not known how rapidly the money came into Freak's hands. Much

---

(1) P.R.O. S.P.12/183/41.
(2) P.R.O. S.P.12/183/57.
(3) P.R.O. S.P.12/184/40. Endorsed: "The somes of monie that have ben paied to Mr. Freake one of the tellers of the exchequer by the recusantes appointed [to] furnishe light horse for the service of the Lowe Countries 21 November. 1585."
(4) P.R.O. S.P.12/184/48.

later, March 1587, Freak had to account for all the money he had received from the recusants and the clergy[1] under the light horse scheme. He stated that he had received £7,460.9.8d. from the clergy in 24 dioceses, and £5,129.5.4d. from the recusants. Contrary to the initial expectation, the clergy's contribution was larger than that of the recusants. That £5,129.5.4d. from the recusants exceeded the estimate of the sheriffs but was less than the figure first calculated by the bishops.

What was the Privy Council's reaction to these facts? It set about considering in detail the origin of that £5,129.5.4d. This was done for the Council early in 1586. A book was drawn up to see just how the scheme had worked.[2] It contained the names of all those whom, initially, the Council had hoped to charge with some payment. Against each name was entered the sum of money the Council had expected to levy, the sum actually levied, and where there was no payment, the reason why was given. For example, the first three entries, relating to Lancashire, read:

	Charged	pay	excuse
Sir John Southworth	£25	£25	
John Britton	£25	-	unable
Thomas Ashton	£25	-	dead (5)

In all, the Lancashire section gave 21 names; 11 of those named paid the sums assessed to them, totalling £550 out of a possible £550. The discrepancy was accounted for under four categories of excuse: Disability,

---

(1) P.R.O. S.P.12/199/74
(2) P.R.O. S.P.12/200/61
(5) P.R.O. S.P.12/200/61

£25; Death, £25; Non inventi, £25; No recusant, £125.(1) Using this sort of information the Council could judge where and how the scheme had failed to produce a hundred per cent return. It could be seen where failure had been due to out of date or inaccurate information being used by the sheriffs, and where it was real inability to pay on the recusant's part.

The whole scheme had involved 216 recusants, according to this report, of whom 87 actually paid money to the sheriffs. The Elizabethan clerk who drew up the report calculated that the government anticipated receiving £6,822.10.0. He stated that £5,519.5.6. was actually paid by the sheriffs, which is slightly in excess of the sum of £5,129.5.4. which Mr. Freake at the exchequer of receipt acknowledged as received by him. The report further stated that £2,117.0.0.(2) had not been collected for various reasons. These were of two sorts. Firstly the sheriffs, either because they could not find the recusant, or having found them could not bring them to pay,had failed to collect £550. Secondly £1,568.10.0. had not been realised because the Council was working on out of date information and had included in the lists, sent to the sheriffs, people who were either not recusants, or dead, or financially unable to pay.(3)

Nevertheless the scheme had produced more money for the crown than had the statutory fines in any previous twelve months. The net had been

---

(1) The accounting for non payment was not complete in all instances.
(2) Contemporary estimate. £5,519. 5. 6.
2,117. 0. 0.
£5,456. 5. 6 would be the expected total accordi to these figures.
(3) The clerk calculated a total deficit from these causes at £2,117. It would seem that the figure should be £2,118.10. 0.

flung over 27 counties, as contrasted with the 18 counties which featured in the exchequer record books. Contributions were paid by 52 recusants whose names had not then appeared on the exchequer receipt books.

This was sufficient evidence to make the Privy Council reflect that the time had come to re-assess the recusant problem and, if need be, to devise an alternative sanction to the £20 fine. Direct action from the Council through the sheriffs instead of the slow machinery of the law courts and the exchequer - that was the lesson taught by the light horse scheme, 1585.

The Privy Council did not delay long before deciding on its next stepin its policy with recusants. On February 20th 1586 letters were sent to several counties, addressed to the sheriffs and certain justices of the peace ordering them to assess the value of the income of recusants named by the Council.(1) A draft of the letter is extant and outlines clearly the idea behind the new policy.(2) Its wording is most illuminating. After formal greeting it states:

> The quene's majestie uppon reporte made unto her by us of her Privie Councell, of the ready and willing disposycon of the principall recusantes of that county in yelding to the charge latelie laied on them, for the provyding and furnishing of certen light horses for ... service in the lowe Contryes, of her gracious and clement nature and affectyon towardes her subjectes being nowe pleased ... to extend her favour in some reasonable degree towardes them, with regard nevertheles to the qualitie of their offence as a matter of daungerous example,wherein her majestie most earnestly

---

(1) A.P.C. 20th February 1586.
(2) P.R.O. S.P.12/186/81.

> wissheth their reformacion to the comfort of their sowles and her due satisfactyon. And as her majestie for her parte can be contented to ease them of the common daunger of the lawe, the daily vexacion of informers, and the ordinary circumstances and inconveniences growing thereby unto them: so dothe she expect that they on their partes, according to juste estimate of their lyvinge and revennues, and in respect that the commonweale receyveth no benefyt or service of them as of the rest of her majestie's subiectes that lyve in obedyence, shall make offer of a reasonable portyon thereof to be yerlie paied and delyvered into her majestie's receipt, and emploied to suche good uses as to her majestie shalbe thought convenient. (1)

These tortuous phrases told the sheriffs and the recusants that this was a matter of royal favour, an exercise of the prerogative of the crown. The law was to remain, but its penalty was to be suspended on condition of the recusants paying a fixed part of their incomes to the queen. The offence of being a recusant was not disregarded or minimised, it remained a dangerous example in the state, but for advantages to the crown in money, this was to be tolerated. There was a skilful balancing of advantages in the proposal. The recusants were to be free from informers and appearances in the courts, while the queen was to get the whole of the recusants' contribution without need to pay informers, or administer the law, or give anything to the poor - all of which burdens the statute laid on her. Financial gain, administrative speed, and toleration were to go hand in hand. It was a strange reversal of the Council's attitude of 1581, especially in the middle of the Netherlands campaign. Yet it was precisely because of their contributions to financing the campaign that the recusants were to enjoy this relaxation of penal code.

---

(1) P.R.O. S.P.12/186/81 ff. 197r.-198r.

Obviously the crown was going to take care of its own interests and the letter stressed that a reasonable sum had to be offered to qualify for the dispensation. It was suggested that those with livings of more than £240 per annum should offer half the statutory penalty as their composition, namely £130.(1) Those with smaller incomes (the letter leaves blank the exact income envisaged) were to offer a third of their yearly living. The Council foresaw that the recusants might all declare themselves to be very poor and offer small sums. To avoid this the sheriff and justices were to see that special panels were appointed, composed of men without catholic sympathies, to value each recusant's living and possessions. The use of the normal grand jury was scorned as useless and a mockery. A marginal comment, added to this copy of the letter, emphasised that there should be very plain dealing all round, and that abuse of the scheme would involve the reintroduction of the full statutory penalty.(2)

The scheme was quickly under way. As early as March 18th, 1586, the three justices of Berkshire appointed to operate it, wrote back to the Council reporting their action. This action will serve as an example of what took place in the various counties. The justices had called a meeting of those recusants listed by the Council as suitable, examined them about their incomes, arrived at a just offer of part of their incomes, and urged them to invoke "her highnes to the greatere clemency & favour of their case, which in hitt selfe deserved more rigour than at any tyme hath yet

---

(1) Counting, as the law did, 13 lunar months to the year - or £260 for one year's recusancy.
(2) PRO.SP.12/186/81.

bin used"[1] - an acid comment on the situation. Those recusants who did not attend the meeting, the justices listed and sent the list to the sheriff that he might proceed against them by the ordinary course of the law.

The offers, from Berkshire, were accompanied by a humble petition for mercy and compassion because of the recusants' "poor estates" and their "obedient and duetifull hartes to her highnes in all other respectes" except their recusancy. They offered to pay their money only as long as God did not direct them in conscience to conform and obey the law. Thus they avoided asking outright for a life-long immunity.

The offers themselves will repay a close study. In all there were 42 separate offers made. They were made on behalf of 58 people, that is some of the offers were to cover a man and his wife, or a whole family. Out of the 58 people involved, 39 were women; of these 25 were wives, the offers being made by their husbands, 9 were daughters, the offers being made by their fathers; 4 widows, their offers from themselves and friends, 1 servant, the offer from her master. Immediately one is struck by the preponderance of women recusants, twice as many as the men. Clearly the chance of avoiding the rigour of the statute brought into the open many women recusants whose menfolk were willing to pay a fixed agreed sum, but not willing to meet the full fine.

Indeed, this composition scheme touched more recusants than anything

---

(1) P.R.O. S.P.12/187/45.

hitherto in government policy. To look at the Berkshire report again, in addition to the 58 people who made offers of composition the justices listed 67 other recusants who had failed to respond to the queen's gesture. A total of 125 people who were intended to be included in the scheme. In 1585 for the light horse contributions Berkshire had produced five recusants,(1) two of whom paid; in the 1582 bishops' survey of recusants, Berkshire had not been listed at all.(2)

Lastly from Berkshire, we must note the range of sums offered. The lowest was 20/- and the highest £10. The justices had said that they considered these offers as just and accurate attempts to satisfy the Council's demands. This they may have been, but they were nothing as compared with the fines. Moreover, the two recusants who had paid £25 each for the light horse levy, off red 20 marks and £10 as a yearly composition for their fines. If the Berkshire returns were an indication of things to come in the other counties, the scheme was doomed before it had got under way. The offers were too low to encourage the Council to continue.

The next return sent back to the Council was from Middlesex, important because that area included many of the wealthiest and most important recusants who had to live near London by order of the Privy Council.(3) How did their offers compare with the Berkshire ones? As would be expected they were much higher and were perhaps what the Council had in mind when

---

P.R.O.
(1) SP.12/200/61.
(2) SP.12/156 42.
(3) SP.12/187/48.

launching the proposals. Lady Elizabeth Paulet, Sir Thomas Tresham and Sir John Arundell offered £100, Lord Vaux and John Gage, esquire, £80, John Townley £66.13.4, Thomas Wilford £50, Sir Thomas Fitzherbert and Francis Yate £40. The remaining 15 offers were all for sums less than £55. There were 33 recusants who no longer lived in the area but for whom the Council still held the Middlesex justices responsible; for these no offers were returned. This was not a heartening report.

The reasons for its failure are revealed if we glance at the individual statements which the Middlesex justices forwarded to the Council together with their lists summarising the business. Each recusant commented on his financial state when making his offer, thus hoping to prove that he could offer no more.

Tresham, offering £100, pointed out that he had already paid £600 in fines and was still owing money to the Exchequer which had to be paid off at the rate of £200[1] per year. Townley mentioned the £620 he had already paid in fines, and the £50 for the furnishing of two horsemen, and that he was greatly charged with children. He could afford only 100 marks.[2] John Gage had already paid £50 for the horseman, £140 in fines, and owed a further £400 to the Exchequer to be paid at the rate of £100 a year.[3] All this he said was well known to the Privy Council. He offered £80 per year. Francis Yate, besides enumerating similar fines and debts,

---

(1) Tresham's statement gives the figure £600 as paid already in fines, but the exchequer accounts show £300; the figure £600 is more probably what was still owed in fines.
(2) £66.13.4.
(3) It should be noticed that these recusants openly declare heavy arrears of fines at the exchequer, confirming the picture drawn of the slowness of payments into the exchequer.

pleaded that he had been in prison at Wisbeach for a year and was only put on bond. £40 was his limit as composition. John Hocknell, who could make no offer, had a sad tale of five years' imprisonment for not coming to church, besides fines still outstanding against him. He protested that he had no money and had to live on his friends.

In short the benefit of the queen's offer was lessened by the fact that some, wishing to use it, were already heavily in debt to the crown and feared burdening themselves further for the future. Others were too poor to make anything but a feeble offer. Others made no offer at all.

Is this pattern set by the Berkshire and Middlesex evidence confirmed by reports from other counties? Staffordshire, Lancashire and Sussex can be used as further samples before analysing the whole scheme. It was April 18th 1586 before the Staffordshire justices sent in their letter explaining what they had done and enclosing the offers of the recusants, which in the justices' words were "as much as their abilities will well stretch unto."(1) Four principal recusants, Sir Thomas Fitzherbert, John Giffard, Brian Fowler and Sampson Erdeswick were living in the London area at the Council's pleasure, another five gentlemen were not continually inhabitants of Staffordshire, consequently the justices had not been able to find them, despite letters sent to their houses.(2) Fifteen people, however, did make separate offers, one of which was framed in such a manner as to merit quoting in full.

---

(1) P.R.O. S.P. 12/188/29.

(2) John Draycott, Philip Draycott, Frances Gattacre, Frances Bolleston, Andrew Macclesfield - by this time well known recusants, both to sheriffs and Council.

> I Erasmus Wolsley beinge conferred withall what I will geve to bee discharged of the penall statutes towchinge recusancye, am contented willingly to pay and yeeld yearly to her majestie's use the summe of twentie poundes, soe that I and my landes may bee discharged from all former charges extentes forfeitures and penalties that hereafter may bee imposed or layd upon the same by reason of any of the sayd statutes of recusancie. (1)

This was no plea for mercy but a clear legal bargain with the terms set out to cover all possibilities, in order to gain full value for the £20 promised. Several of these Staffordshire offers carefully enunciated the benefits to be enjoyed on paying the composition yearly, Two made offers from jail where they had been cast as outlaws for their recusancy. The amounts offered were 22/- and 10/-d. Apart from the smallness of these sums it is interesting to note that the scheme was open to all recusants, convicted and unconvicted alike. The highest offer was Wolsley's £20, the lowest 10/-. In the parish of Ridware Hampstall, known to the justices as a hotbed of recusancy, one gentleman offered 5 marks, and twelve poorer people each offered 20/-. This little group of recusants, unbidden by the Privy Council, had put their heads together and decided that it was worth trying to buy immunity from the law. Staffordshire thus totalled 27 recusants willing to pay £65.16.8d. per year. It was a meagre result from a county with several hundred recusants.

Norfolk had featured more strongly in the exchequer receipts than Stafford up to this date. In the light horse levy, however, only one of its fifteen recusants listed for that charge paid his portion. What of their showing in this composition scheme? Certainly far more than fifteen people were examined and urged to contribute, but to little effect. The

---

(1) P.R.O. S.P.12/188/29, i.

justices divided their report into two sections, the principal recusants who made an offer, and the married women and the meaner sort for whom no offers were made.(1) There were twenty-one in the first group, gentlemen and esquires who put their names to sums ranging from £50 to 10/-. Six more important recusants, named by the council, did not appear despite warrants sent out for them.(2) Of the lesser sort there were forty whose estates the justices found to be mean or uncertain, and about whom they awaited further instructions from the council.(3) As matters stood when their report was submitted, 26 Norfolk recusants offered the crown £181.3.4. per annum in lieu of fines, an average of £6.19.6. per recusant. Hampshire produced 11 offers from the Council's list of 71 recusants. The offers amounted to £128.3.4. ranging from £40 to £2.(4) The return for Buckinghamshire was no better, but here the justices appointed to handle the matter declared that they had little or no knowledge of the people they were dealing with and therefore could in no way assess their livings or judge the reasonableness of the offers.(5) Thomas Throgmorton esquire alone offered a large sum, £100; the other 10 offers added together were worth less than £50 per annum.

Not all the returns for the counties are extant in the State Papers. However, once most of the justices appointed as commissioners for this task had sent in their reports, the Privy Council had the results drawn up into a book in order to analyse and evaluate the whole series.(6) This

---

P.R.O.
(1) S.P.12/188/9.
(2) S.P.12/188/9(ii)
(3) S.P.12/188/9(i)
(4) S.P.12/188/16.
(5) S.P. 12/188/32.
(6) S.P. 12/189/54.

book still exists and provides the fullest surgey there is. It summarised the reports from 26 counties.(1)

Durham, Westmoreland, Cumberland, Derbyshire, Yorkshire and Huntingdonshire were not included in the summary. Their part in the scheme remains unknown. Indeed it seems possible that no letter was sent to Yorkshire to announce the plan,(2) and thus no action was taken. Warwickshire although it was listed among the 26 counties in this summary had two names under it, against which no valuation or payments were entered. To judge the success of the composition policy the Privy Council had, in effect, the abbreviated reports from 24 counties.

Summary of the Offers made by Recusants in 25 Counties, 1586(3)

County	Number of offers	Value of offers £ s. d.	Valuation of Livings etc. £ s. d.
Norfolk	21	181 5 8	1,250 0 0
Berks	41	138 6 8	----
Essex	4	78 13 4	419 6 8
Middlesex	22	849 13 4	1,910 0 0
Southampton	11	89 13 4	200 0 0
Suffolk	16	339 6 8	4,420 0 0
Wiltshire	6	55 6 8	550 0 0
Stafford	23	65 16 8	170 0 0
Gloucester	1	20 0 0	----
Lincoln	1	20 0 0	----
Dorset	2	8 13 4	----
Bucks	12	171 10 0	300 0 0
Chester	6	72 0 0	273 6 8

(1) Berks, Bucks, Chester, Cornwall, Dorset, Devon, Essex, Gloucester, Hereford, Lincoln, Lancaster, Leicester, Northampton, Norfolk, Middlesex, Staffs, Suffolk, Surrey, Sussex, Salop, Oxon, Southampton, Wilts, Warwick, Worcester, Kent.
(2) P.R.O. S.P.12/194/174. A paper entitled "Names of the counties to which letters were written to deale with the recusants in Feb. 1585/6 and which have not certified."
(3) Taken from .R.O. S.P.12/189/54.

(contd.)

County	Number of offers	Value of offers £ s. d.	Valuation of Livings, etc. £ s. d.
Lancs	6	96 15 4	933 6 8
Oxford	55	202 15 0	750 0 0
Cornwall	1	10 0 0	----
Leicester	2	10 0 0	----
Northampton	2	8 15 4	----
Hereford	19	129 16 8	----
Surrey	11	238 6 8	1,515 0 0
Kent	5	190 0 0	----
Devon	1	10 0 0	----
Sussex	11	125 0 0	219 6 8
Sallopp	4	17 0 0	115 6 8
Worcester	16	86 16 8	217 10 0
Totals	517	£3,198 5 4	£11,924 3 4

The first point which this synopsis of the composition scheme disclosed to the queen's councillors was the fact that the scheme had worked at random. No single section of the recusant body had been dealt with; it had not been restricted to the wealthier recusants. 517 recusants of all stations of life, scattered over 25 counties had offered the crown £3,198. 5. 4. per annum in exchange for immunity from the law which enjoined attendance at church. It was not a very attractive offer for the government.

This was clearly the reaction of the Privy Council, for there exists a commentary on the scheme, enumerating the reasons why it had produced such a poor result.(1) The author of this paper maintained that the lists which had been used by the local justices as a basis for asking certain people to make an offer had been defective and out of date. Consequently many recusants who should have been included in the scheme were not even listed.

---

(1) P.R.O. S.P.12/194/73.

Many others, who had been listed by the Council as people who were to be interviewed, had been too readily written off as not living in the county concerned, or as being dead when in fact no enquiry had been made as to the truth of this.

Furthermore the offers which had been made were highly suspect, being based on a valuation of the recusants' wealth, which had been assessed locally by those who were far from impartial. The commentator on the scheme listed three reasons why such valuations were not to be taken as reliable. First, he held, that the valuations could have been wrong because those recusants of importance in the counties may have browbeaten the assessors into rating the recusants at small sums; secondly, the recusants may have been rated according to the ancient rent of assize; or lastly the assessors may have disregarded the lands which a recusant of one county held in another county.

All that the scheme had produced was a game of financial hide and seek. It had not solved in any way the problem of what to do with the recusants in order to get them to pay the penalty for not going to church. During 1586 the receipts at the Exchequer had been lower than in the previous year.(1) This was perhaps due to the concentration by the crown officials on the composition scheme to the neglect of the normal working of the 1581 statute. It is not difficult to believe that, while there was so much talk of relief from the penalties of the statute, the sheriffs and the justices of the peace, who were already inclined to be slack in

---

(1) P.R.O. E.401/1859. Easter Receipt, 1586 - £558.0.11.
E.401/1840. Michaelmas Receipt, 1586 - £982.4.5.

the execution of the law, would have relaxed still further their attempts to indict and convict the offenders. Many may have regarded the whole incident as a confession on the government's part that the statute was to be allowed to fall into disuse.

Certainly it must be remembered that while this scheme was being pursued, while the lists of names were going out to the counties and back to London, while Walsingham and the Council were trying to decide whether to accept the offers or not, the recusant problem was increasing. The process of conversion to Roman Catholicism was continuing. It was not a situation which could be frozen for six months while the government tried first one remedy and then another. Two reports from Herefordshire and a third from Lancashire, at this time, 1586, are sufficient to indicate what was happening in the country.

Both the reports from Hereford are ecclesiastical in origin, referring to the whole diocese; one is directed to Walsingham explicitly,(1) the other is not, but reads like a second account of the same problem and most probably was meant for him.(2) Their authors, unknown, left Walsingham in little doubt that leniency was not what they recommended at this stage. The first report(3) stated that not only were some areas,

---

(1) P.R.O. S.P.12/195/46. "A note for the right Honorable Sir Francis Walsingham concerninge the recusantes in the diocese of Hereford."
(2) P.R.O. S.P.12/195/45. "Causes of the increase of recusantes in the Dioces of Hereford with meanes howe the number of them may be diminished, or at least stayed from increasing more."
(3) P.R.O. S.P.12/195/45.

notoriously recusant, without justices of the peace, but that throughout Herefordshire the head constables and petty oonstables, as a body, were thought,

> to be somewhat popishly geven & by reason thereof popishe and seminarie preestes are receyved & have free passage throughout the greatest part of the same shire and when searche is made for them in Herefordshire, have warninge thereof & are convayed into Monmouthshire, Brecknockshire, or Radnorshire. (1)

Such freedom for their priests made the recusants bold in speech and insolent in action. They showed by their behaviour that they had little to fear from the law, which was slackly administered.

> Some recusantes escape inditing throughe the corruptnes of juries some being indited are wincked at by justices in respect of kinred or frendship; some goe untouched throughe the fault of the cutos rotulorum, clerke of assises & sherif, whoe doe not their duties in orderly sending out processe, or in forbearing to apprehend the offenders, when they maye, or in committing some error or other whereby the execution of the lawe is deferred, and by meanes thereof many are incouraged to offend, & to make smale accompt of the paynes sett dowen agaynst them. (2)

Walsingham was urged to have letters sent down from the Privy Council to reprove the justices and others concerned and to threaten them with answering to the Council for any such neglect or contempt of the law. In the second report(3) it was stated that slackness was used towards those recusants who had been tried and convicted. The writer urged Walsingham to warn the circuit judges

> ... not to geve to[o] muche liberty to suche as have ben arayned and convicted for recusancie & committed to the jayle, for suche summes [sums] of money as therfore is

---

(1) P.R.O. S.P.12/195/45. f.117r.
(2) P.R.O. S.P.12/195/45. f.117v.
(3) P.R.O. S.P.12/195/46v.

> is due to her majestie, as nowe they have: for they goe at theyre pleasures to theyre owne houses in towne and cuntrey, perhappes with some suche as they make choyse of to beare the name of theyre keeper .... (1)

The other report agreed with this censure, saying:

> ....convicte recusantes are suffered to remayne together in Hereford, and to goe into the countrie & come agayne at theire pleasures, & to have what persons they will to resort unto them, whereby it is to be feared that many are by them perswaded or alured to be of their opynions ... (2)

What was Walsingham to make of these criticisms as he turned from them to the offers of eight Herefordshire recusants to compound for the fines?(3) On one hand the abuse of justice, on the other paltry offers of 20/-.(4) The government had said that the composition scheme was born in response to the recusants' generosity over the light horse contributions, but it must have been interpreted by many recusants as the abandonment of the 1581 statute. Not only was the money they offered contemptibly small but it was offered in conditions of hostility to the government. In the case of Hereford, while the scheme was still being considered, the Privy Council had to order the Council of the Marches to look to matters in Gloucester and Hereford because of "the falling awaie of manie of her Majesties subjectes in religion, and the bold and unlawfule meeting of papistes at Masses." The Council's letter noted that the law and the officers of justice had grown to be contemned in those parts. Was it conceivable that the same Privy Council would compound with the Herefordshire recusants/

---

(1) P.R.O. S.P.12/195/46. f.119v.
(2) P.R.O. S.P.12/195/45. f.117r.
(3) P.R.O. S.P.12/189/2.
(4) There were eight offers in May 1586, and twelve further offers in June 1586. P.R.O. S.P.12/190/4.

for a mere £129.16.8. per year, thereby appearing to set an official seal of approval on all flouting of justice up to date.

The Lancashire evidence is brief but equally revealing. Owing to the efforts of Robert Worseley, the Council had a report of the fines which were owing from twenty-one convicted recusants.(1) Worseley had been in charge of the prison at Manchester for the past four years.(2) He calculated that from these convicted recusants there was £3,105.0.0. still unpaid. In contrast, the response to the government's composition scheme in Lancashire had been 6 offers with a total value of £96.13.4d. per year. To have accepted such an offer would have been an admission of failure, for it would have been apparent that the government were ready to treat with some Lancashire recusants while the exchequer was unable to collect past fines from others. The Council could not maintain that it was as a result of the generosity of the Lancashire recusants that the offer of immunity from the law had been made. The contributions to the light horse levy had been no more than £350 from 11 recusants.(3) There had been 10 others who had paid nothing, though they had been listed as due to pay.

The situation in other parts of the country was equally unfavourable towards the launching of a scheme of relaxing the law. From Hampshire there were indications that the recusants far from diminishing were on the increase. The Council directed the Earl of Sussex and the Lord

---

(1) P.R.O. S.P.12/190/43.
(2) Peck, op.cit. I. iii, p.49. No.52.
(3) P.R.O. S.P.12/200/61.

Lieutenant of the county to take the principal recusants into custody, put them under bonds, and send them up to be examined by the Council in London.(1) According to the Council, many who before this time had been dutiful in their attendance at church had been influenced by missionary priests and had become recusants. The sheriff and certain justices of the same area were also ordered by the Council to search for seminary priests or for unlawful assemblies of recusants.(2) From the bishop of Winchester the Council had learnt that among those who had changed their religious practices were

> many yeomen and others of strong and able bodies by whose evill example and obstinacie divers of the comon and inferior sorte are dailie led and perverted and others incouraged to continew obstnate. (3)

This was scarcely the atmosphere in which to arrange a limited suspension of the law against recusants. The Council record shows that there was similar seminary priest activity in Rutland, Leicester and Northampton, with the consequent strengthening of recusant resistance.(4) Even if the offers had been financially attractive to the government, the general situation was against the successful operation of the composition scheme.

As quickly as it had arisen the scheme was abandoned and no more was heard of it in the Autumn of 1586. With this idea shelved, the question remained what to do with the recusants in order to make them pay their fines. While Walsingham and Burghley were examining this perennial problem, the exchequer was slowly gathering in what fines it could. As we have

---

(1) A.P.C. 25th May 1586.
(2) A.P.C. 25th May 1586.
(3) A.P.C. 25th May 1586.
(4) AP.C. 31st May 1586.

already noticed, the Easter receipt for 1586 was £558.0.11.(1) The Michaelmas receipt 1586 showed a total of £982.4.5.(2) Thus for the year, Easter 1586 to Easter 1587 the exchequer had received £1,540.5.4. which was the lowest annual receipt since the 1581 statute had been in force. The material result of all the activity to promote the composition scheme had been to decrease the already small exchequer receipts.

To complete the picture of how the 1581 statute was working in the period 1581-87, a further study of the exchequer receipts is necessary. The following tables show (a) the number of recusants who paid fines from 1581-87, (b) the total receipts per term at the exchequer, (c) the receipts for each county for the period 1581-87.

The number of Recusants involved in the paying of fines 1581-87

Counties	Recusants
Suffolk	15
Norfolk	6
Hampshire	8
Staffs.	5
Lancs.	3
Wilts.	3
Oxon.	2
Lincoln	2
Northants	2
Hereford	3
Sussex	2
Surrey	2
London	2
Monmouth	2

(continued on next page)

(1) P.R.O. E.401/1859.
(2) P.R.O. E.401/1840.

Counties (contd.)	Recusants
York City	2
Berkshire	2
Yorkshire	1
Herts	1
Derbyshire	1
Essex	1
Kent	1
Gloucester	1
Dorset	1
Cornwall	1
	69 Recusants

N.B. In the receipt books each entry bears the name of the county which was given as the area in which the recusant had his home. According to that designation the above list has been compiled.

Pells Receipts of Recusant Fines: 1581-87

1581	Easter Term	Nil
	Michaelmas Term	
1582	Easter Term	Nil
	Michaelmas Term	£617. 2. 2.
1583	Easter Term	£285. 0. 0.
	Michaelmas Term	£2,256.12. 8.
1584	Easter Term	£986. 4. 0.
	Michaelmas Term	£840. 4. 2.
1585	Easter Term	£1,571. 0. 5.
	Michaelmas Term	£1,041.13. 4.
1586	Easter Term	£558. 0.11.
	Michaelmas Term	£982. 4. 5.
		£8.958. 1.11.

The last entry for the 1586 Michaelmas account was on the 20th February 1587. Consequently the Easter account for 1587 began after the statute of 1587 had been passed; therefore that account is not included in this analysis.

Receipts from counties and cities, 1581-1587

Suffolk	£2,599. 12. 9.
Norfolk	1,247. 11. 4.
Hampshire	1,153. 14. 7.
Wiltshire	626. 10. 5.
Lancashire	598. 12. 4.
Northants	595. 2. 8.
Berkshire	446. 13. 4.
Kent	402. 1. 4.
Essex	272. 14. 0.
Lincolnshire	260. 0. 0.
Sussex	240. 0. 0.
Herefordshire	152. 3. 4.
Staffordshire	127. 8. 0.
Cornwall	91. 6. 8.
Oxfordshire	63. 6. 8.
Hertfordshire	60. 0. 0.
Surrey	50. 19. 0.
Yorkshire	47. 0. 0.
Gloucestershire	40. 0. 0.
Derbyshire	30. 0. 0.
York City	24. 1. 4.
London	20. 8. 0.
Monmouthshire	7. 6. 8.
Dorset	5. 17. 6.
Total -	£8,958. 1.11.

The most obvious fact displayed by the first list is the lack of fine-paying recusants from the northern counties. Cheshire, Cumberland and Westmoreland are not represented at all, and Lancashire has only three names. In the whole of Yorkshire one recusant paid, with a further two from York itself. Staffordshire, notoriously recusant, has five payers. On the other hand, Norfolk, Suffolk and Hampshire account for 29 names out of the total 69. This suggests the existence of local variations in the application of the statute which were all-important.

Let us examine Norfolk and Suffolk first. Together they produced 21 fine-paying recusants. Of these, 14 were constant payers over the

whole period 1582-87, the remaining 7 made only single payments in that time, of which 6 were in the Michaelmas term 1586-7. If we can explain the reason for the 14 being drawn into the exchequer net so early, then the later addition of 7 could be postulated as the continuation of a local policy already fixed. What cause can be ascribed for the 14 recusants being fined in one part of England while in other areas no one paid fines?

The explanation would seem to have its roots in the royal progress of 1578 when the catholic gentry of Norfolk and Suffolk were proceeded against by the Privy Council for their religion.(1) Some were held in detention while persuasion was brought to bear on them to change their attitude, others were committed to the local prison for their obstinacy. In short they made themselves thoroughly well known to the crown and letters concerning them continued to pass between the Privy Council and the local bishops and sheriffs. Among the 23 so dealt with in 1578 were 10 of the 14 fine-payers of later date.

In July 1582, Lord Chief Justice Wray wrote to Lord Burghley and among other matters certified the cases of recusancy dealt with on circuit in the counties of Buckinghamshire, Bedford and Cambridge.(2) Not above six or seven, according to Wray, were presented for recusancy in those three counties, but in Norfolk and Suffolk many were. Then he added that in Norfolk and Suffolk some obstinate recusants were convicted, and among

---

(1) For details of this event see Chapter II, pp.65-67.
(2) Hatfield Calendar, ii. 509. 1172.

these were 9 of the 10 who had attracted the Privy Council's notice in 1578, and who, as we have said, were among the 14 regular fine-payers on the exchequer lists. It may be added that, among the estreats of fines sent for special attention in 1582 to Burghley by Sotherton,(1) a baron of the exchequer, the four recusants listed for Norfolk were the four of the nine mentioned in Wray's letter of the same year.

It will be seen from this evidence that none of the lists coincide exactly, but there is a sufficient number of names common to all these lists to support the argument that the recusants of Norfolk and Suffolk had sufficiently obtruded on the Privy Council's attention to cause that body to urge the enforcement of the law in that area more stringently than elsewhere.

Incidental support is lent to this argument by the fact that the solitary recusant entered under Essex in the exchequer receipt books 1582-87, Rooke Green, figured in the 1587 Privy Council enquiry which had involved the Suffolk and Norfolk people.(2) By order of the Privy Council he was transferred from prison to private custody on account of ill-health in June 1579,(3) a proof that he was still obstinate in his recusancy. His name was on a list in 1581, among others who had to hold themselves ready for examination by the Council, at notice.(4) For this purpose he was obliged to live in London under the custody of a Mr. William

---

(1) Hatfield MS. Cecil Papers 283/1.
(2) B.M. Cotton MS. Titus.B.III.22.
(3) A.P.C. 28th June 1579.
(4) P.R.O. S.P.12/151/11.

Tutty. At the same time and to the same end, he was listed as one of those on bond to the crown.(1)

Other Essex recusants had, of course, been involved in the 1578 enquiry, and others were listed besides Green in the Privy Council lists cited, but his name does stand out with noticeable regularity during these years. He had drawn the full attention of the government to his case, and like those in Norfolk and Suffolk, if anyone was to feel the full rigour of the law it was surely to be Green. While not conclusive it is a highly probable explanation.

Does this argument hold for the rest of the recusants on the exchequer books, namely that they had in some way or other brought themselves to the notice of the Privy Council over the course of years and thus stood out as people to be dealt with more rigorously than the general run of recusants;

Unfortunately there is not a comparable amount of evidence for other areas, but where there is, the argument would seem to hold. Hampshire, for example which, after Suffolk, had more names on the exchequer records than any other country, partially supports this argument. Only three recusants from that county had paid anything by Michaelmas 1583, a further five paid fines by Michaelmas 1586. Dr. Paul described the episcopate of bishop Watson, 1580-4, as one of laxity towards recusants,(2) the bishop himself being suspected of catholic sympathies. On the contrary, bishop Thomas Cooper appointed in 1584 was a vigorous opponent of recusancy.

---

(1) P.R.O. S.P.12/154/25.
(2) J.E.Paul, "The Hampshire Recusants in the reign of Elizabeth I." (University of Southampton Ph.D. Thesis), p.11, note 25.

and set about immediately on arrival to attack the problem in Hampshire. His appointment and his subsequent rigour towards recusants was well known and approved of by the Privy Council. Dr. Paul stresses the fact, which we have noticed earlier, that the number paying fines was but a fraction of the total number of recusants in Hampshire, but here we are concerned not with that discrepancy, as with the reason why as many as eight recusants paid at all.

If we look at their names and see if these eight Hampshire recusants were people individually known to the council then there is only one of them who falls into that category, namely Gilbert Welles. In 1580-1 he was living under supervision on bond for good behaviour in the London area.(1 A little later he was convicted of harbouring a seminary priest and was removed to prison at Wisbeach.(2) By 1584 he was in gaol at the Marshalsea(3 for religion, precisely for what offence is not known. Here again is an example of the recusant who was continually under Privy Council supervision; but the more that explains his being successfully forced to pay his fines the more it leaves in mystery the other seven Hampshire recusants who paid their fines but did not attract such notice. The explanation which meets the Norfolk and Suffolk evidence is less conclusive in the case of Hampshire.

Will it fit the remaining 19 counties with their 59 recusants? Were all these recusants well-known to the Council for one reason or another? For the period 1580-84 there are six lists extant which were drawn up to

---

(1) B.M. Harleian MS. 560 f.2v.
(2) P.R.O. S.P.12/151/11
(3) P.R.O. S.P.12/170/11

inform the Council about catholics who were under its special surveillance.[1] If the 59 recusants on the exchequer books are classified as well-known to the Council, or objects of its special attention, then we would expect to find their names, or the majority of them, in those lists. In fact, nine names found in the exchequer of receipt occur twice, on those six lists, and a further eight occur once. In all, 17 fine-paying recusants out of 59 can in this way be classified as persons previously dealt with for matters of religion by the Council. The remaining 22 do not appear at all on those lists. Of these 22, however, four were the subject of direct Council control in the period 1580-81, either being actually in custody or at liberty under bonds[2] during that time. The two Lincolnshire recusants, thus supervised, were noted as being the centre of disaffection in their county, persuading some not to conform who formerly had been inclined to attend church.[3]

Thus out of the 69 paying fines between 1585-87, 55 can be described as personally known to the Privy Council as obstinate recusants. This goes

---

(1) P.R.O. S.P.12/168/55. Listing receivers and maintainers of priests in various countries. 1584.
B.M. Harleian MSS.360 f.1v. Listing people who had been sent for by the Privy Council. 1580.
P.R.O. S.P.12/154/25. Listing recusants under bond to the ecclesiastical commissioners or the Council.
P.R.O. S.P.12/151/11. Listing recusants who had to live near London to be on call for examination by the Council.
C.R.S. 1905.60 citing BM.Harleian MS.360.f.51v.
C.R.S. citing P.R.O. S.P.12/140/56, 57, 58, 59, 40; 141/1.

(2) A.P.C. 1580 July 16th, William Tirwight of Lincolnshire in custody in London, accused of hearing mass.
A.P.C.1581 June 15th William and Robert Tirwight released under bonds £300 and £200 respectively.
A.P.C. 1581 Sept.5th John Scudamore and Gomande ordered to appear before the Council - letters to the sheriff and bishop of Hereford about this.

(3) A.P.C. 1581. Oct. 17th.
A. .C. 1581. November 5th. Together with another Lincoln recusant they were committed to the Fleet prison.

some way to explaining why certain people paid fines and not others, but because less than half of those paying can be accounted for under this head it does not satisfactorily explain the application of the penal law. Taking into account the discrepancy between a known number of recusants in a county and the number paying fines, and adding to this the fact of the curious distribution of those paying over the various counties, one is forced to see the exchequer receipts as the result of the vagaries and hazards of local justice rather than as the final product of a set policy directed by the Privy Council.

This judgement of the situation is confirmed if we examine these exchequer receipts in another manner. What amounts did the exchequer receive from each county? As would be expected, the three counties with the highest number of fine-payers accounted for £4,800.18.8. or rather more than half the total recusant revenue between 1581-86. Following the same analysis we find that a further five counties, Berkshire, Northants, Kent, Lancashire, Wiltshire, produced £2,666.19.1. in fines. Thus eight counties, out of the twenty-two counties and two cities concerned, answered for £7,467.17.9. out of the total £8,958.1.11. In other words less than half the number of counties appearing in these accounts answer for all but a seventh of the total recusant revenue.

If payments of individual counties are compared, then there is no constant ratio between the number of recusants per county and the amount paid. For example, Staffordshire which was fourth numerically with five recusants, accounted for £127.8.0., while Northants with two recusants

paying accounted for £595.2.8. Sussex with two payers totalled £240.0.0. but Kent with one payef totalled £402.1.4. The single Essex recusant answered for £272.14.0. but his counterpart for Dorset only £5.17.6.

As these figures would suggest, the fines paid varied enormously from individual to individual, from county to county. 41 of the 69 individuals paid less than £100; 16 of that 41 paid less than £20. At the other end of the scale 9 people paid fines worth more than £500 each. The accounts, 1582-87 embraced Gilbert Wells paying £720.0.0. and William Lewes paying £2.10.0. Wells paid his fines on six different occasions, Lewes made a solitary payment at Michaelmas 1586. Anthony Throckmorton's name appeared regularly each term from Michaelmas 1585 to Easter 1586, with a payment of £10 against each entry, £60 in all; while William Fawkener's name, however, came up only in the 1585 Easter account, but for two payments totalling £500. People appear to have paid when and how they chose, sometimes in multiples of £20, but frequently not. Lord Vaux who was a constant payer of recusancy fines, from an early date adopted a nibbling process of meeting his debt to the exchequer. Every exchequer term he paid sums of money ranging from £17.15.0. to £44.15.6. His custom was to make several separate payments in the same term on different days. Thus by 1586 he had paid £515.5.9. in twelve separate payments. Michael Hare, a Suffolk gentleman, on the contrary, forfeited £440 in two straightforward payments of £240 and £200. Such wide variations inthe method of meeting fines suggests that the exchequer was prepared to accept every sum, great or small. Its patience was inexhaustible

For the Privy Council, however, the problem remained acute, what to do to make the 1581 statute an effective weapon for suppressing recusancy. There was no doubt that some alteration of the law was necessary. It was not the same problem as had been faced in 1581. Then the discussion had been about the nature and extent of the penal code. In 1587 the field was narrower, namely an administrative problem of how to enforce the financial penalties of the earlier statute. There was no suggestion anywhere that the attack on the recusants' wealth should be changed for some other form of punishment. The fine was to remain but its exaction was to be more efficient. Parliament when it met was faced with the fact that the 1581 statute had not worked well and that the recusants as a body had not paid the heavy fines imposed on them.

Chapter VI.

The 1587 Statute

It was not until the last fortnight of the 1586-87 Parliament that recusant matters were raised. On Tuesday 14th March, "Two bills of no great moment had each of them one reading, being the last reading, and thereupon passed."(1) The second of these was a bill for the more speedy and due execution of certain clauses of the 1581 Act. According to D'Ewes it was expedited, "communi omnium Procerum assensu, dissentiente solummodo comite Rutland." It was then sent to the Commons.

There on Thursday 16th March, the bill had its second reading and was committed, "unto all the Privy Council of this house, Sir Robert Jermin, Sir John Higham, Sir William Moore and others."(2) They met the same afternoon in the exchequer chamber.

The result of their considerations was that a "bill for recusants with the proviso," as D'Ewes described it, was given its third reading on Saturday 18th March and passed upon the question, that is to say, without further debate.(3)

---

(1) D'Ewes Journals, p. 386. There is no earlier mention of recusant bills.
(2) D'Ewes op.cit., p.415.
(3) D'Ewes op.cit., p.415.

The following Monday, March 20th, the bill was sent along with others to the Lords. There, it was quickly dealt with. Complete with an amendment and proviso from the Commons, it was accepted and passed by the Lords omnium procerum assensu.(1) In less than a week the bill had cleared its course through both houses. On March 23rd, the royal assent was given by Sir Edmund Anderson acting on behalf of the Queen.(2)

Despite the lack of detail in these accounts, it seems likely that the bill was a government measure from start to finish. Most probably Burghley saw to its passage in the upper house. The inclusion in the lower house of all the Privy Council members in the only committee concerned with the bill argues for strong government interest in its fate there. The only other members of the committee whose names appear in D'Ewes' account were strong puritans and likely to support the government on an anti-catholic measure which in no way extended the power of the bishops.

In all it was a businesslike measure and one suspects that it had been carefully drafted by the lawyers specifically to avoid the vagueness of the 1581 Act. This time there was no room for fanaticism. As its title announced, "An acte for the more speedie and due execucion of certayne branches of the statute made in the 23rd yere of the queene's majesties raigne... "(3) this act aimed at speeding up the application of laws against recusants and at enforcing the penalties once a conviction had been obtained.

Accordingly the act may be considered under two heads, first the

---

(1) D'Ewes op. cit., p.388
(2) J.E.Neale, Elizabeth.I. and her Parliament, 1957, ii.190.
(3) 29. Elizabeth. c.6.

parts dealing with the process of conviction, secondly those dealing with the payment of fines. In the act, as it was framed, these two aspects intermingled, but for our purpose it is better to discuss them separately.

What were the alterations relating to the process of convicting a recusant? First there was a limit set to the courts which were to try recusancy matters. The act laid down, "that everie conviccion hereafter for anye offence before mencioned, shalbe in the court comonlie called the Kings Benche, or at the assises or generall goale deliveri, and not elshere."(1) Thus the jurisdiction of the justices of the peace in recusancy matters was curtailed. According to the 1581 Act they had been appointed to help the assize judges in trying recusancy cases and applying the £20 fine. Now this was to stop. They could still initiate a process against a recusant but not convict him. That had to be left to the assize courts.

In this way one of the main features of the 1581 Act was reversed. The great puritan battle to employ the justice of the peace as the prime agent in the anti catholic penal code was lost after five years trial. In 1581 a puritan commons had kept the bishops from gaining control of the anti recusant laws, now in 1587 their own chosen instrument, the justice of the peace, was debarred from any major role in operating those laws.

Was this a tacit admission, by the government, that a wholesale drive against recusants in every and any court was not possible?

---

(1) 29 Eliz. C.6.

Were only a limited number of recusants, such as could be easily handled at the assizes alone, to be proceeded against henceforth? At first sight the limitation of the courts empowered to convict recusants might seem to point to such conclusions. However, other provisions in this act showed that though only the King's Bench and the assize courts were to apply the £20 fine, the process of conviction was to be simplified in order to obtain as many convictions as possible in the limited time at the disposal of those courts.

This was to be achieved by making convictions for recusancy automatic and not requiring any court procedure once an initial conviction had been obtained by the usual method of presentment, indictment, trial and verdict. The act was quite clear on this point ....

> everie suche offendor in not repayringe to Divine service, but forebearinge the same contrarie to the saide estatute, as hereafter shall fortune to be therof once convicted, shall ... paye into the saide receipte of exchequer after the rate of twentie poundes for everie moneth which shalbe conteyned in the indictement whereupon suche conviccion shalbe; and shall also, for everie monethe after such conviccion, without any other indictement or conviccion, paye into the receipte of the exchequer aforesaide ... after the rate of twentie poundes for everie moneth after such conviccion. (1)

In this way the assizes had to handle but a single case against a recusant and convict him, for him to be thereafter continuously subject to the penalty of the law until he gave definite proof that

---

(1) 29 Elizabeth. c.6. The underlining is my own.

he had abandoned his recusancy and conformed in religion. Thereby pressure of business on the courts was to be considerably eased, and the innumerable repetitions of cases against the same recusants was to be avoided. Previously, every time the £20 fine was imposed it had required a precise indictment specifying when and where the act of absence from church had taken place. All this had meant work for the clerk of the peace at every sessions and had greatly increased the liability of errors of fact in the indictments, thus providing a way of escape for the recusant. All this clumsy machinery was swept away and only one trial was required.

This automatic conviction of recusancy without further trial was to apply retrospectively as well as to the future. The law ordained that

> everie offendor ... as hathe byne theretofore convicted for suche offence ... shall, without any other indictement or conviccion, paye into the receipte of the saide exchequer all suche sommes of money as, accordinge to the rate of twentie pounds for everie moneth sithence the same conviction doe yet remayne unpayed. (1)

Thus if someone had been convicted as a recusant two years previous to the passing of this law he was liable not only for the fines specified in that conviction but also for the monthly fine for every month since his conviction, unless it were known that he had ceased to be a recusant and had publicly conformed before his bishop. Likewise he was liable to the monthly fine for as long as he remained a recusant in future - all this without any need for fresh conviction or process of law. The exchequer could act on the receipt of a

---

(1) 29. Elizabeth, c.6.

single certificate of conviction and proceed to demand fines through the sheriff until the death of the recusant if he remained obstinate in his refusal to attend church. This was indeed putting teeth into the 1581 Act.

Moreover it is important to notice that the recusant had to prove himself clearly as one who had conformed or renounced his recousancy before he could escape the automatic demand from the exchequer for his fine. The law was to regard him as a recusant until he gave clear proof to the contrary. Recusancy was not to be something he could slip in and out of and hope the law would not catch up with him; it was to be a permanent status, which once attached was not easily discarded.

The act also allowed for a simple form of indictment in the case of a recusant whose place of residence was unknown. The new indictment did not have to specify that the offender was or had been inhabiting within the realm. It was sufficient that he was one of the queen's subjects. He could be convicted in absence upon proclamation at the assizes immediately following the one at which he had been indicted.

> ...and if at the saide nexte assises or goale deliverie, the same offendor so proclaimed shall not make apparaunce of recorde, that then upon suche defaulte recorded the same shalbe as sufficient a conviccion in lawe... as if upon the same indictment a triall by verdict there upon hadd proceeded and byne recorded. (1)

This section of the act mentioned explicitly that people abroad

---

(1) 29, Elizabeth c.6.

might be co victed in their abs nce unl ss a pl a th t they were outside the queen's dominions was entered on their behalf. It seem clear fro the way in which this cl u e was worded hat the statute had others than exiles in mind. The indictm nt of every offender could be worded in this way and the process of convicti n in absence was to apply to everyone not appearing in court to an wer the charge. That class of recusant who rode to another county when the assize judges arrived, were surely in the minds of those drafting the act. As in the other clauses of the act, the aim was to speed up the process of conviction by eliminating anything which involved delay, whether through too great detail in wording indictments, or through fruitless searching for absent recusants.

The government expected that with these improvements the assizes would be able to handle recusant trials along with other busin ss. The advantage in restricting the new l w to the assizes lay in their being much ore relia le courts of r cord and more immediately un er the control of t e Privy Council. Befor the ju ti e of s ize went out on circuit, they could be clearly informed of the object nd cope of a new statute. Th same w not true of the justic s of the e ce in th ir divi ion , as the last few years had shown.

To t is si plifying of t e judicial side of the r cusancy laws, the 1587 Act dded radical change in the collecting of fines. This must be examined n xt. The act dealt with ol debts as much as with fi s to be incurred in the future.

Fir t of all it attacked any fr uds or delays which had been

practised previously to avoid paying fines. No recusant was to make any gift or conveyance or alienation of an estate whereby it could appear that the recusant was then unable to pay his fine through lack of possession while, in fact, the transfer was merely nominal and revocable at will. No transfer of lands was to be allowed where the intent was one of maintaining the recusant and his family, though the transfer was permanent. All such legal devices were declared void and the lands thus transferred were to be taken for the queen's use.

Next the act aimed at checking on all past convictions for recusancy:

> ...everie conviccion heretofore recorded, for anye offence before mencioned, not alreadye estreated or certified into the quenes majestie's courte of exchequer, shall from the justices before whom the recorde of suche conviccion shalbe remayninge, be estreated and certified into the quenes majestie's courte of exchequer before the ende of Easter terme next comynge. (1)

In this way the exchequer hoped to have an accurate account of all the money owing to it from convictions in the past years. Once informed of what fines were owing the exchequer was then to proceed to the seizure of goods and lands of those recusants who stood convicted but who had not paid their fines,

> everie conviction heretofore recorded ... shall ... be estreated and certified into the ... exchequer ... in suche convenient certeintye, for the tyme and other circumstaunces, as the courte of exchequer maye thereupon awarde out processe for the seizure of the landes and goodes of everie suche offendor as hathe not payde their saide forfeytures ... (2)

---

(1) 29 Elizabeth c.6.
(2) 29 Elizabeth c.6.

This applied to people already convicted but the law extended the same ruling to any conviction in the future. If a recusant was in future convicted and was unable to pay his fine the statute made this provision:

> ...if defaulte shalbe made in anye part of anye payment aforesaide (i.e. to fines) ..., then and soe often, the quenes majestie shall and maye, by processe out of the saide exchequer, take, seize and enjoy all the goodes and two partes as well of all the lands, tenements and heridataments lyable to suche seizure or to the penalties aforesaide ... levinge the third parte onelie of the same landes ... to and for the mayntenance and relief of the same offendor, his wief, children and familie. (1)

In this way the government showed its determination to extract some money from those recusants who could not pay the whole fine. Inability to pay the full amount incurred by long periods of recusancy was no longer to be an excuse for not paying at all. Now the exchequer had clear authority to act automatically on evidence of any default in the payment of fines. The crown was no longer to be fobbed off with erratic payments or token payments; if the whole fine could not be met, then seizure of part of the lands of the defaulter was to ensure a steady payment term by term until the exchequer was satisfied.

How this was done in practice will be discussed later together with the analysis of the exchequer receipts for the period 1587-93.

A limit to the confiscation of property was contained in two provisos added most probably to the act when it was a bill in the committee stage in the house of commons.(2) These provided for the situation arising out of the conformity of the recusant or his death.

---

(1) 29 Elizabeth c.6.
(2) D'Ewes Journals, p.415.

The liability to fines was to cease immediately on death or conformity of the offendor and consequently so was any seizure of estates by the Crown.(1) Any lands confiscated were to be released by the crown on the death of the offender, and the heir was not answerable for any further payments.(2)

One last change was made by this act. This was the new disposition of the fines. By the 1581 Act a third part of the fines was to be used to relieve the poor; now this provision was widened to include

> the relief and mayntenance as well as of the poore and of the houses of correction, as of impotent and maymed soldiers, as the same lorde tresorer, chauncelor and chief baron [of the Exchequer] or anye two of them shall order or appoynte. (3)

As with the operation of the law so with the fruits of it, the tendency was away from local control and concerns. By 1587 it was the exchequer which dominated the system of fining and the use of fines.

The 1587 Act did not alter the general policy towards recusants. It still left the ecclesiastical courts their previous scope and powers. It provided no alternative except prison for those recusants who could not pay any part of the £20 fine. It did not increase penalties or make any decision about recusant wives. What it did achieve was a smooth and more rapid process for fining those recusants of some substance who stood convicted. It might be called an exchequer act so much was it concerned with that office of the royal government.

---

(1) 29 Elizabeth. c.6.
(2) 29 Elizabeth. c.6.
(3) 29 Elizabeth. C.6.

While owing little to religious fervour or episcopal l rm, it did pr nt a st rn det rmination on the p rt of the crown t make the ea lí r penal ode work; from that there to b no r tre t. Vagu sch mes of compounding f r fines h d given way to th reality of confisc tion of property. There was a cold efficiency ab t the 1587 act which contrasted sharply with the blust r and c n-fusion of the 1581 statute.

What was the result of this amendment to the penal code? The crown had hoped for great things from its earlier law imp sing the £20 fine, but the reality had been a meagre return from a small number of rec sants. W s this second attempt to p ov any more succes ful? Once again it is th exchequer receipts which can tell us in terms of money actually received just how well the new laid l w lived up o expectatio s.

- - - - - - - - -

According to the wordin f the new act, the certificates f all p st convictions for recusa cy were to be in th ha d f the ex-chequ r cl rks by the end of t e Ea ter t rm 1588 and all the fines which were out t ndin for the years 1581-87 were t be paid into the exchequ r by th end of th legal Hilary Term 1588. If these rulings were complied with, then we would expect to find the xchequer eceipts rising st dily aft r the l w w s prom lgat d, as mor nd more p ople paid the fines that were owing from past ye rs, s well as paying further fin s incurred after 1587.

The following table, showing the value of payments term by term, best illustrates the effect of the new law on the payment of fines. The totals are calculated from the receipt books for the years 1587-93.(1) Unfortunately the receipt book for the Michaelmas term 1592-3 is missing, consequently this account is defective to that extent. The period 1587-93 was the time when the 1587 act operated without any emendation and when there were no changes in any part of the penal code against catholics. With the parliament of 1593, however, new laws against catholics were framed and the situation altered again, but between 1587 and 1593 we witness the attempt to apply the harsher law which had arisen directly from the failure of the 1581 Act. It may be called the third phase of the policy which had begun in the 1570's, taken shape with the 1581 Act and had been perfected by this law of 1587.

Total of receipts in the exchequer from recusancy fines 1587-1592 (2)

	£	s.	d.
1587 - Easter term	1,975	16	11
Michaelmas term	3,319	0	3
1588 - Easter term	2,699	0	11
Michaelmas term	5,286	14	11½
1589 - Easter term	2,968	9	6½
Michaelmas term	5,032	12	10
1590 - Easter term	3,106	9	1
Michaelmas term	3,363	0	8½
1591 - Easter term	2,930	15	2½
Michaelmas term	2,803	12	3
1592 - Easter term	2,846	16	4
Michaelmas Missing			
	£36,332	9	0

(1) P.R.O. E.401/1841-1851.
(2) These figures are calculated from the receipt books 1587-92. P.R.O. E.4 1/1841-1851

These figur s are i ediate pro f of the ffectiv n s of the new s at te as compar d with that of 1581. If we compare these xchequer receipts from the years 1587-93 with those from the y ars 1581-87 we see how great the increase was. In the period 1581-87 there were 9 exchequer terms, in the periods 1587-93 there were 11 exchequer terms, for which figures are available (the receipt book for Mich elmas 1592-3 is missing). However, the total receipt for 9 terms under the old law was £8,938.1.11., that for 11 terms under the new law was £36,332.9.0. It was more than a four-fold increase for a period only two terms longer. This suggests that the Privy Council had at last found an effective weapon against recusants.

On closer inspection these receipts show that the 1587 Act was not more than partially successful. It was supposed to call in not only the back payments owing to the xchequer from recusants already convicted, but also to ensure the collection of fines from all future convictions. The figures prove that many more fines were paid, but not that many more recusants paid them. Under the old act, 69 people had been entered in the receipt books, as paying fines. In the first term after the 1587 Act went into operation, only two new names appeared on the accounts, one from Sus ex, one from Oxfor . The next term, Michaelm s 1587-88, there were two more names, in the term after that there were 5 ore, then 10 more, 9 more and 8 more in each of the subsequent three t rms; thus bet een Easter 1587 and the end of the Michaelmas term 1589-90 the total number of recusants in the exchequer books had ris n by 36. This repres nted an increase

of more than 50% on the 69 who were paying in 1587.

After 1590 the increase in the numbers paying fines was greater. In the Easter term 1590, there were 13 new payers; in Michaelmas term 1590-91 there were 19; in Easter term 1591 there were 16, and in Easter 1592 there were a further 24; a total of 75. However, by this date, Easter 1592, of the 36 who had appeared in the exchequer accounts between 1587-90, 25 were no longer making any payments. Of the original 69, who had paid between 1582 and 1587, only 45 were still paying their fines. Thus by 1592 there were 145 recusants known to the exchequer as fine-payers. Although this was an overall increase more than doubling the number known to the exchequer of receipts in 1587, it did not keep pace with the more than four-fold increase in the value of the receipts.

The discrepancy between the increase in the numbers paying and the value of fines paid is explained by the fact that the old fine-payers were responsible for far heavier payments than the newcomers. Between Easter 1587 and Easter 1590 (6 exchequer terms), the total receipt was £21,281. 15. 5; of this no more than £5,031. 13. 11 was paid by the 36 newcomers, the remaining £16,200. 1. 6d. was paid by 45 of the older group of 69 recusants who had paid under the 1581 Act. Between 1590-92 (5 exchequer terms) the total receipt from fines was £15,050. 13. 7d; of this £6,084. 5. 5½d was paid by 25 of the 36 recusants who had appeared in the books between 1587-90, together with 75 newcomers. The remainder, £8,966. 8. 1 7/8, was paid by the 45 who belonged to the pre-1587 group. Thus out of a total receipt of £36,332. 9. 0. from fines during the years 1587-92, this group of 45 answered for £25,212. 3. 7½, while the 111 newcomers paid

£11,110. 5.4½.(1)

From these figures it can be seen that the 1587 act did increase the number of recusants from whom the crown was able to extract some fines, but it was a hard core of permanent recusants which was responsible for the great increase in the revenue. The payments were higher in the years 1587-90 than in those of 1590-92, £21,281.15.5 compared with £15,050.13.7d., but the increase in numbers was less in the former period than in the latter, 35 compared with 75. The exchequer was effectively calling in old debts. It was clear that some clauses of the 1587 Act were proving more manageable than others. To increase the pressure on recusants already known to the exchequer was an easier task than that of securing new convictions and exacting first fines.

What more can these exchequer accounts tell us of the success of the 1587 statute? Under the 1581 Act 22 counties had been entered in the exchequer books as the source of the fines paid. Between 1587-93 the number of counties appearing in the books rose to 32. Among these were 11 new counties from which payments had not previously been made and of the 22 counties which had appeared in the earlier accounts, 21 still continued to appear in the receipt books.

The table on page 252 shows the distribution of fine paying recusants throughout the country, and shows how many in each county were newcomers to the exchequer accounts and how many had appeared previously in the years 1581-87 and were still paying fines. Out of a total of 167 there were 20 women recorded as paying fines.

(1) The figure 111 recusants is an over-all figure including the 36 during the years 1587-92 and the 75 from 1590-92, though it must be remembered tha

Counties.	No. of recusants paying fined 1587-93.	new payers	old payers
Berkshire	6	5	1
Buckingham	3	3	
Cheshire	1	1	
Cornwall	5	4	1
Dorset	2	2	
Devon	2	2	
Derbyshire	2	1	1
Essex.	7	5	2
Glamorgan	3	3	
Hampshire	10	5	5
Huntingdon	1	1	
Hertford	1		1
Hereford	4	1	3
Kent	4	3	1
Lancashire	13	11	2
Leicester	1	1	
Lincoln	5	3	2
Monmouth	3	3	
Northants	6	4	2
Nottingham	1	1	
Norfolk	10	4	6
Oxford	3	3	
Rutland	1	1	
Shropshire	7	7	
Staffordshire	7	5	2
Somerset	2	2	
Sussex	10	8	2
Suffolk	22	10	12
Wiltshire	7	5	2
Worcester	7	7	
Warwick	2	2	
Yorkshire	9	9	
Totals	167	122	45

It is noticeable that the counties which had figures so heavily in the 1581-87 accounts, Hampshire, Norfolk and Suffolk, when they accounted for 29 recusants, now had 42 recusants paying fines. This meant that they had continued to be among the counties where the fines were most successfully levied. However, three counties which had been noticeable by the paucity of their fine payers in the period 1582-87, namely

Lanc shire, Sussex and Y rkshire, when they had a total of 7, now produced 32 recusants on the rec ipt bo ks. Worc ster and Shropshire which previously had not featured in the receipt books answ red for 14 rec sant fine p yers. The new law obviously sw pt clean in some corners previously untouched.

It al o continu d to miss so e counties such as Ch shire, We tmorland and Cumberland. The latter two still did not oc ur in the rec ipt account, and f r Ches ire only a single nam was enter d. D rbyshire h d only two names and Stafford hire, thou_h it had 7, showed an increa e of but two names on its previous total of 5. The following table shows the 22 counties which had fine payers 1581- 7 and compares the numbers f r that period with those of 1587-93.

Counties.	Recusants, aying fines 1581-87	Recusants paying fin s 1587-93
Suffolk	15	22
Norfolk	6	10
Hampshire	8	10
St ffs	5	7
Lancs	3	13
Wilts	3	7
Yorkshire (and City)	3	9
Essex with London	3	7
Oxon	2	3
Lincoln	2	5
Northants	2	6
H reford	2	4
Sussex	2	10
Surrey	2	0
Monmouth	2	3
B rkshire	2	6
Hertford	1	1
K nt	1	4
Dorset	1	2
Cornwall	1	5
Glo ce ter	1	0
D rby hire	1	1
Tot l	69	135

the exchequ r had de ling from 1581 onwards still provided in 1593 the majority of fine pay rs; 146 out of 167 for the whole country. Yet these 135 did not represent a straightforward addition to the 69 of the pre 1587 eriod. There had been los es as well as g ins. Of the original 69 payers only 45 continued to pay after 1587; thus of the 135 recusants paying fines, from tnese 22 counties, 90 were ne fine payers under the rec nt law. The remaining 32 payers, out of a total of 167 for the period 1587-93, were drawn from the 11 counties which had been brought into the xch quer's reach since 1587.

The picture was one of increasing efficiency on the part of the crown, mor and more recusants were being brought within the full scope of the law, but the total number concerned rem ined considerably less than 200 for the entire period 1581-93. It se ms a small figure wh n we remember what administr tive and legal activity had b en required to produce this result.

One of the most striking features of the pre-1587 accounts w s the wide variation in payments made by indivi ual recusants. Any and every sum h d b en accepted by the exchequer in the payment of fin s. Indeed from a study of these accounts alon , it would be im o si le to conclude that the fine had been fixed at £20 p r month, o infrequently did tnat figure or 'ts multipl s ccur in those accounts.

The period after the 1587 Act sh d no chang in t is matter. Once again amin tion of the accounts reveals t e widest dive gence in th ums paid. H nry Nowell of Dor et paid £3. 6. 8. on a single

occasion between 1587-93;[1] Henry Wells of the same county paid £6. 13. 4; Walter Hildesly of Berkshire paid £8. Os. 0.;[2] Thomas Hulse, also of Berkshire, paid £10 in three instalments.[3] Thomas Vachell of Berkshire made 6 payments of £12.8.2d. and 7 payments of £6.17.4. amounting in all to £121.14.4.[4] John Thimbelby of Lincolnshire paid £178.5.10½ in four instalments,[5] whereas Thomas Throckmorton of Buckingham answered for £240 in two payments,[6] From Cornwall John Arrundel paid £860 in fines in eight separate payments[7] Robert Aprice of Huntingdon paid £1,140 in ten.[8]

Right from one end of the scale to the other, from Henry Nowell of Dorset with his £3.6.8. to Robert Aprice with his £1,140 there was every conceivable amount paid into the exchequer as part or whole of a fine. Seemingly the law could lay down elaborate rules about what was to be paid into the exchequer, but the exchequer was only too ready to accept anything that was brought to its receipt at Michaelmas or Easter in any year. The picture presented by the term totals from 1587 to 1593 might suggest the orderly working of the new law bringing in increased payments of fines as the 1587 act had envisaged.

---

(1) P.R.O. E.401/1849. Easter 1591.
(2) P.R.O. E.401/1846. Michaelmas 1589.
(3) P.R.O. E.401/1849, 1850, 1851. Easter 1591, Easter 1592.
(4) P.R.O. E.401/1846-1851, every term from 1589 to 1592.
(5) P.R.O. E.401/1848, 1850, 1851, Michaelmas 1590, Michaelmas 1591, Easter 1592.
(6) P.R.O. E.401/1847, Easter 1590. E.401/1851, Easter 1592.
(7) P.R.O. E.401/1851, every term except Michaelmas 1591.
(8) P.R.O. E.401/1844 - 1851, every term 1589 - 1592.

To some extent that was the true picture, but behind those figures of so many thousands per term lay the same mixture of separate payments, following no discernible pattern, as characterised the accounts before 1587.

One great change, however, is noticeable in these accounts after 1587. The statute of that year had laid down that if there was any default in paying the fines incurred for recusancy then the exchequer had the power to issue a process by which the goods and two parts of the lands of the recusant could be seized in order that payments may be made until the whole amount of the fine had been answered for. The object was dispossession and rent extraction. The exchequer accounts show this process at work, namely the twice yearly payments of rents from lands which had been seized by the crown on default of payment of the full fine. To understand the significance of the post-1587 receipt accounts in this respect we must look again at the accounts for the years 1582-87 and see how they lead up to the system as set out in the 1587 statute. As in every other aspect of recusant penal legislation, the provisions for seizure of lands had been foreshadowed and hinted at in practice before they hardened into statutory law.

Before 1587 the pells receipt books contained entries of recusants paying their fines sometimes fully, more often not. Whatever the size of the payment the entry tells us that it was a straightforward payment in cash. For example, let us take five entries from the 1583 Michaelmas account.

Kent. Thomas Wilforde de parte £300. 4° Decembris £100

Northt. Thomas Treshaume de parte £140. 6° Decembris £100

Staff. Willmo Maxfelde de parte £240. 19° Octobris £40

Cornub. Richardo Tremayne per vicecomitem. 13° Novembris £33.6.8.

Norff. Fardinand Parris, armiger, in perfecta solucione £220. 4° Novembris £220. (1)

Of these five recusants only Parris of Norfolk is entered as paying his full fine of £220, the rest are part payments, but in none of the entries is there any suggestion that the payment was in any way a rent from land held by the crown. The payment were straightfoward cash payments direct from the recusant to the exchequer or more normally through the sheriff. Although there were many recusants who were defaulting on full payment of fines they could not be proceeded against, as the law then stood, while they continued to pay something, however small. The law stipulated imprisonment for the recusant who could not, or would not, pay his fine at all; it was silent about the recusant who nibbled away at a vast debt of fines with paltry payments.

However, it was possible if the exchequer so decided to treat those who would not pay as crown debtors, and, where it was profitable, their goods could be distrained on and their lands extended. So much was common law practice without specific statutory authority.(2)

Thus it is that occasionally, in the period before 1587, the receipt accounts contained entries which stated that the money paid

---

(1) P.R.O. E.401/1834.

(2) H. Bowler. "Some notes on the Recusant Rolls of the Exchequer." Recusant istory, 1958, iv. 182.

in, was the rent from the lands of a recusant as distinct from a fine. The First entry of this sort occurred in the 1584 Easter account where the first three entries were as follows :

Southampton: Roberto Knighte et Alicia Knighte de exitibus terrarum per Hugonem Cuffe. 4° Maii £24.2.6.

Willielmo Herde et Willielmo Burghley de exitibus terrarum p r Hugonem Cuffe soluti sunt. 4° Maii £24.12.6d.

Wiltes: Thome Gawin armiger de exitibus terrarum per magistrum Hugonem Cuffe generosus firmarius ibidem 4° Maii. £19.1.11d. (1)

In these accounts we can see that Hugh Cuffe was acting as crown lessee and was responsible for paying the money due from the lands he was farming in discharge of the fines owed by Knight and his wife, Herde, Burghley and Gawin. This is confirmed by evidence from the Recusant Roll 1592-93(2) where the following entry occurs under Middlesex:

firmarius Hugo Cuffe generosus debet 38.3.10d. de firma totius illius tenementi cum pertinentibus in Barford ancti l rtini in t nur Jac b' Gli e existe ti c d'ver o . al'orum m su gi ru t rr rum et t ne toru cum pertinetibus in Rotulo XXV^to in iltes specific t ru parc lla terrarɔ et p sessi n m Thome we , gen r , recusantis, habendum et tene d m pr f to F gomi Cuffe exec ori us et ass'gnatis s 's, a f t A unci ti n's beat e Mariae virginis anno XXV^to regi e huius pro t rmino ig'nt' t unius anno m, extunc pr x' o sequenti , si t md' pr missa in m n'bus r gi a r nere cont'g pr s is act' e b't a'ct' Tho G wen. (3)

Cuffe h d been grant d the le se of G wen's lands in 1583 and had to pay annually to the exchequer £38.3.10. in discharge of the fines

(1) P.R. . E.401/1835.
(2) "P c s nt Roll.1.1592-93, d. l.c.C.Calthrop.C.R.S. 18. 1916.
(3) . .S. XVIII, 142-143.

of Thomas Gawen. What we have in the 1584 Easter account is the first half yearly payment by Cuffe of £19.1.11 under that arrangement. It was not a very good arrangement from the exchequer point of view, for the next mention in the receipt books of any payment from Hugh Cuffe was in the Michaelmas account of 1585. Then he paid the sum of £19.1.11d. again from the lands at Barford Saint Martin in Wiltshire. The exchequer receipt entry reads:

Wiltes. de reditibus firmae manerii de Hurdcote 5°Novembris.£19.1.11.(1

The manor of Hurdcote or Hurcotte was the name of the land belonging to Gawen and held by Cuffe at Barford St. Martin. The same payment was made again at Easter 1586(2) and again at Michaelmas of the same year.(3) Thus we can see, in the case of Thomas Gawin, the exchequer practice of sequestration of lands, in order to exact payment for fines owed, at work before the 1587 law was to lay down a general statutory ruling.

The system was far from efficient; for after the initial entry for Robert and Alice Knight, Easter 1584, which we have noted, when £24.2.6. was paid, there was no further payment made by Cuffe on their behalf.(4) Likewise for William Hurde or Herde, for whom Cuffe was also the crown agent, there was only one further payment after Easter 1584, namely at Michaelmas 1585; the exchequer received £7.3.6. in part payment of Hurde's fines. Thereafter Cuffe paid no more in respect

---

(1) P.R.O. E.401/1838.
(2) P.R.O. E.401/1839.
(3) P.R.O. E.401/1840.
(4) Robert Knight's name appe rs on the recusant roll 1592, to the effect that he then owed £120 in fines and that an ord r had been issued to assess his lands.C.R.S. 18. p.288.

of Hurde or Burghley.[1]

Cuffe was undoubtedly widely engaged in this sort of business. He handled the lands and the payments from them, not only of the recusants already mentioned but also those of Walter Blunt in Staffordshire, of Richard Tremaine in Cornwall, of William Tucker in Essex and of William Lewes in Monmouth.[2] Clearly the exchequer receipts show evidence of the crown being ready to accept partial payment from lands seized from those whom it considered as crown debtors. This policy was on the increase. By the end of the 1586 Michaelmas term the exchequer had record of 26 recusants whose payments were being made from lands which had been confiscated; 13 counties were involved.

The 1587 Act laid down most clearly how this policy was to be conducted and extended in the future. It provided for the forfeiture to the crown by process out of exchequer of two thirds of a recusant's lands and of all his goods and chattels if he defaulted in payment of any part of a fine. This was to be accomplished by the following procedure.

The statute ruled that the court which had tried the recusant and convicted him, was to send an estreat or abridgement of the original indictment to the exchequer, to inform the exchequer officials that a conviction had been secured and a certain fine impos d. This

---

(1) Burghley is cited on the recusant roll 1592, but his lands then were held by George Burghley who paid the crown 4/3 per annum. C.R.S. 18. p.278.
(2) P.R.O. E.401/1840.

information, according to the 1587 statute, had to be sent to the exchequer before the end of the exchequer term following the date of conviction.(1) Thus if a recusant was convicted of a month's absence from church at a July Assizes in 1587, the exchequer was to have notice of the fact before the end of the Michaelmas Term which ran from October 1587 to March 1588.

There was nothing new in this arrangement except the time limit set for dispatching the information to the exchequer. Before 1587 the courts had sent in rolls of estreats to the exchequer, to inform the clerks of receipt what money they were to expect from fines imposed at various sessions. For example, the roll of estreats drawn up after a session of Gaole Delivery in the Justice Hall of the Old Bailey, in 1584,(2) listed six people as convicted of twelve month's absence from church and therefore owing the exchequer £240 each.(3) This information was preserved in the Lord Treasurer's Remembrancer's department for future use. In this instance the information from the court reached the exchequer within less than a month of the cases being tried.(4) As we would expect from that period, none of the six who were convicted paid any part of the £240 fine imposed; at least the exchequer receipts have no mention of such payment, then or later.

---

(1) 29. Elizabeth c.6.
(2) P.R.O. E.362/1/15.B. Rolls of Estreats (L.T.R.)
(3) In this instance the fine was calculated as twelve times the monthly fine and not as £260 for a year or 13 lunar months.
(4) The session was held on January 2 th 1584 according to the heading on the roll, and a note in another hand at the foot of the roll states that the exchequer had the information by February 10th 1584.

It was on this sort of notification, which the 1587 statute insisted must be sent to the exchequer, that further action depended. The estreats of fines gave the date of the sessions at which the recusant had been convicted, the name, rank, parish and county of the recusant, as well as the period of absence from church with its appropriate fine. Armed with these facts the exchequer could proceed to apply the clauses of the 1587 statute relevant to seizing land on non-payment of the fine.

The estreats were enrolled, among other items of revenue, on the Pipe Rolls from 1581 to 1591 and on separate rotuli recusantium from the Michaelmas term 1592 onwards. It is from the first of these recusant rolls[1] that we can most easily see the first step towards seizure of lands. Under each county the lists of convicted recusants was entered with all the information contained on the original estreats. If the fine was paid then the entry recorded that fact with the formula et quietus est.[2] If the fine was not paid, then the words fait commissio were entered against the relevant entry.

This meant that a commission was issued to deal with the seizure of lands. Letters patent of commission were awarded out of Chancery and certain people, in the shire concerned, were nominated to inquire into and assess the value of lands of the recusants named in a

---

(1) Recusant Roll 159 -93 ed. F.C. . C lthrop. C.R.S.XVIII, 1916.
(2) e.g. C.R.S. XVIII p.5. the entry for Thomas Throckmorton, who paid £140 on May 28th, 1593.

schedule accompanying the commis ion.[1] The p ople on the commission were nominated by the Keeper of the Great Seal and the exchequer barons and were to be of some standing in their county.

The sheriff was respon ible for the local arrangements concerning the inquest into the recusant's lands as w ll as for the return of the findings of that inquest to the exchequer. Those nominated in the commission to assess the value of the land had the power also to divide the recusant's land and take into the crown's possession the statutory two thirds.

The result of what had been done in the county was ultimately entered on the recusant roll in the r ntal section, thus making a permanent record of what land had been confiscated, who was in possession of it, and what it was going to pay to the exchequer each year in part solution of the total fines.

Leases were granted under the exchequer seal to 'custodees' and 'farmers' who administered the property on beh lf of the

---

(1) H. Bowler, "Some Notes on the Recu ant Rolls of the Exchequer". Recusant History, 1958, iv. 182-198. For these and other details of exchequer proce ure used in this chapter.

Crown.(1) "When a recusant property was thus farmed for the Crown by a lessee the roll [the recusant roll] marks the fact not only by giving the main details of the lease in the body of the entry but also by inscribing his (the lessee's) name

---

(1) The following illustrate this process at work:

P.R.O.S.P.12/219/68. Mr. Worseley the keeper of the New Fleet prison Manchester asks that he might have the leases of the lands of those recusants who by his efforts were convicted. c.1589.

B.M.Lansdowne MS.64/49. F118f. Thomas Cullyforde complains that though he has obtained the grant of two parts of the lands of William Hoorde[Hurde] a recusant he cannot gain possession of them to enjoy the benefit therefrom. 1590.

Hatfield Cal. IV.198, 1592 May 10. A warrant for a commission to enquire of the possessions of William Smithe, William Mannocke and William Roper of London, grocers, convicted recusants.

Hatfield Cal. IV. 79. 1590. Request by Anne Boleyn, daughter of Sir Edward Boleyn for the forfeitures of five recusants.

B.M. Lansdowne H.S. 82/70. Petition from John Coye to Burghley to have a recusancy bestowed on him, because he had helped convict the recusant. 1596.

B.M. Lansdowne MS.83/45. Mr. Paul Thomson, a chaplain to Lord Burghley, asks for the benefit which will acrue from convicting two recusants. 1596.

at the beginning of it, he now being the official Crown debtor in lieu of the recusant and lawfully in control of the seized portion of the estate ...."(1)

Thus an entry typical of this arrangement is the first entry for Buckinghamshire in the recusant roll for 1592:

> Robertus Balthroppe principalis chirurgus domine regine debet CXXXVI^{l} VL^{s} V^{d} per annum to ffirma tocius illius capitalis mesuagii cum pertinenciis vocati Amerden in Taplowe una cum diversis aliis mesuagiis terris et tenementis pratis boscis et piscacionibus in magno rotulo de anno XXIX^{no} in item Buck' specificatis de terris et tenementis Henrici Manfeyld armigeri recusantis....." (2)

From this it is clear that Robert Balthrop held the lands confiscated from Henry Manfield and was required according to his lease to pay the sum of £68.3.2½ twice a year, at Michaelmas and Easter, into the exchequer. The lands had been confiscated in 1587 when the details had been entered on the Pipe Roll,(3) the recusant roll not being in use at that date. If we turn to the receipt books we can check how many such payments had been made under this arrangement. Regularly each term from Michaelmas 1588 onwards there is an entry of payment from the lands of Henry Manfield for the sum of £68.3.2½d.(4) Thus did Robert Balthrop fulfil his contract and thus did the exchequer gain something from the lands of Henry Manfield leased out to a crown lessee.

---

(1) H. Bowler. op. cit., 189.
(2) C.R.S. XVIII. p.1.
(3) P.R.O. E.372/432.
(4) P.R.O. E.401/1844-1851.

How successfully this machinery worked can be judged from an examination of the receipt accounts in the post 1587 period. There the entries by the exchequer clerks continued to make the distinction between a payment which came from lands seized by the crown and a direct payment from a recusant. Payments from rents of lands seized, became more and more the prevalent form of entry.

In six exchequer terms from 1584 to 1587, there had been 26 recusants who had had their lands seized and whose fines were answered by rent-payments. In the first term after the Act of 1587 there were 12 recusants whose method of meeting their fines was of this sort. In the next term, Michaelmas 1587, there were 15, and the figures steadily rose as each term went by. At Easter 1588 there were 22; at Michaelmas 34; at Easter 1589, 45; at Michaelmas 41, and at Easter 1590, there were 47. In these 7 exchequer terms the total number of recusants who had been entered in the exchequer books as making this sort of payment was 61. In any single term the entries with the formula "E redditibus terrarum" ... or "E tenementis et terris..." predominated and the whole pattern of the accounts changed from what they had been in the earlier years when this sort of entry was rare. With the enforcement of the 1587 statute payment from lands seized became the normal procedure and it was a decreasing number of recusants who continued to meet their fines from their own current incomes.

From 1590 to 1593 the pattern did not alter and entries in the receipt accounts signifying that a recusant's lands had been taken, accordin to the statutory arrangement of partial confiscation,

continued to predominate. In the Michaelmas 1590 account, 50 recusants were entered as having lands confiscated from which their payments came. At Easter 1591 the number rose to 58; the following Michaelmas it was 58 again and at Easter 1592 it was 79.

These figures, taken together with those of 1587-90, show the overall effect of the provision for seizure of lands in default of payment of the full fine. As the years passed, those recusants who appeared in the exchequer account more and more were composed of people whose lands had been, in the part, taken by the state and leased out to 'farmers' who were then responsible for the payment of a sum agreed on.

It is significant that in these years 1587-93 when the yearly receipts were rising, as was the yearly number of recusants on the exchequer books, there was also a rise in the "rental payments" as we may term the payments from lands confiscated. Undoubtedly the system of confiscation had made the exchequer able to draw in small annual payments where otherwise, witness the pre-1587 phase, there would have been no payment at all.

It would be false, however, to paint too bright a picture of the exchequ r gains from this system. Though the number of recusant's estates which had to make an annual payment increased each term, there were many defects in those payments. The law of 1587 had envisaged a regular payment of a fixed sum each term at the exchequer. In fact what happened was the initial sum was paid, perhaps was paid a second time, and then there was a gap of a few terms and then the same payment appears again. In some cases there was nly a single

payment and thereafter the exchequer received no more. This was less usual than the payments at irregular intervals. As before, the exchequer had been prepared to wait and wait for the full fines, so now it was equally ready to wait for the payments of the agreed rents.(1)

The most illuminating way in which to judge how well served the Exchequer was by this complex arrangement of leased lands and rental payments is to compare the amount in money which came from this source with the amount the exchequer still derived from the dwindling number of recusants who paid directly and straightforwardly the fines which they had incurred.

The following table shows the increase of the revenue from payments of rents of lands confiscated. The period covered is 11 exchequer terms.

Exchequer Terms.	Payments from lands seized by Crown.	Payments direct from recusants	Term Totals.
Easter 1587.	£133. 1. 3.	£1,842.15. 8.	£1,975.16.11.
Michaelmas 1587.	86.19.11.	3,232. 0. 4.	3,319. 0. 3.
Easter 15[illegible]9.	200.10.11.	2,498.10. 0.	2.699. .11.
Michaelmas 1588.	1,020. 1. 7½	4,266.13. 4.	5,286.14.11½
Easter 15[illegible]9.	7 0. 1. 5½	2,268. 8. 1.	2, 68. 9. 6½
[illegible]hael[illegible]s 15[illegible]9.	1,066. 5. 7½	3,966. 7. 2½	5,032.12.10.
Easter 1590.	1,097. 6. 3.	2, 09. 2.1	3,106. 9. 1.
Michaelmas 1590.	70. 3. 1½	2,492.17. 7	3,363. 0. 8½
Easter 1591.	1,169. 1. 3½	1,761.13.11	2,930.15. 2½
Michaelmas 1591.	1,400.15. 1½	1,402.17. 1½	2,803.12. 3.
Easter 1592.	1,399. 0. 9	1,447.15. 7	2,846.16. 4.
Michaelmas 15[illegible]2.	Missing	-	-
	£9,143. 7. 4.	£27,189. 1. 8.	£36,332. 9. 0.

(1) See the variations from term to term in the revenue derived from rents as given in the table on this page.

At first, in 1587, the amount derived from rents was v ry small, and not until the Michaelmas term 1588 did it become an appreciable part of th total recusant revenue. Thereafter the income from rents increased in an irregular fashion until it stood at £1,399.0.9. in the Easter 1592 account, the last figure available in this period.

The figures for Easter 1589 and Michaelmas 1590, in the above table, show that the payments of money from the confiscated lands could drop sharply. Clearly the lessees responsible for paying the money to the exchequer were as capable of defaulting in their payments, as the original recusants had been in defaulting in paying the fines. However, the table shows a gradual stabilising of the revenue from lands and in the last two terms the figure for payments from rents stood at approximately half the total amount of revenue from all recusant sources.

This evidence points to the conclusion that, at the e d of the period under consideration, recusants who had earlier paid their fines, or had atte pted to do so, were gradually drawn into the class of those who had defaulted in such payments nd had to have their lands seized and a rent extracted from the two thirds which the crown held.

This is quite clear from individual entries in these accounts. Frequently a recusant's name appeared as paying a sum of money in partial discharge of a fine. When nothing further was received the exchequer moved to take po s ssion of part of his lands. Then the same recusant's name appeared later in the receipt books with the entry signifying that the payment was from lands confiscated.

For example in the Easter 1587 account Gilbert elles' name appeared

with an entry stating that on the 29th of May he paid £5 in part discharge of £140 which he owed in fines.(1) Then for several terms his name was not entered in the accounts as paying anything more of the £135 which he still owed. Then in the Easter 1590 account on the 27th of May it was recorded that from his lands - e redditibus terrarum Gilbert Welles - £25.12.0. was paid into the exchequer.(2) In the following term, Michaelmas 1590, the return from his confiscated property was £20.13.4.(3) A term later his lands yielded £35.18.0½ and this became the set figure for his twice yearly payment.(4) The entry for Michaelmas 1591, 3rd November, reads £35.17.0½(5) but this perhaps was a clerk's error for £35.18.0½; at Easter 1592 it was once again £35.18.0½.(6)

Similarly William Fawkner of Wiltshire was entered in the Easter 1587 account as paying £5 of the £140 he owed.(7) Then followed the significant silence of the receipt accounts about this debt until in the Easter account of 1590 he was entered with a payment, from his lands, of £35.2.4½.(8) At Michaelmas 1590 the payment rose to £55.6.8(9) and at Michaelmas 1591 it was £65.15.4.(10)

---

(1) P.R.O. E.401/1841.
(2) P.R.O. E.401/1847.
(3) P.R.O. E.401/1848.
(4) P.R.O. E.401/1849-
(5) P.R.O. E.401/1850.
(6) P.R.O. E.401/1851.
(7) P.R.O. E.401/1841.
(8) P.R.O. E.401/1847.
(9) P.R.O. E.401/1848.
(10) P.R.O. E.401/1850.

These payments were as irregular in time as they were in value. At Easter 1592 his lands yielded £27.13.4.[1] to the exchequer, which according to the Recusant Roll drawn up in 1593 was the amount which had to be paid from his lands twice per year.[2] This entry on the Recusant Roll states th t James Marvin was the lessee of Fawkner's land at Laverstock and Tidworth in Wiltshire. Marvin, according to this source, had held the lease from the crown since the feast of St. Michael 1588 which date falls in the period after Fawkner had made the £5 payment in 1587 and before the first payment from Marvin appeared in 1590.

The variations in payments on Fawkner's behalf are explained by the fact that Marvin also held the lease of Fawkner's lands in Hampshire for which he had to return a yearly sum of £72.4.4¼. Clearly in 1592 Marvin had defaulted on these payments for the entry on the recusant roll does not finish with the phrase et quietus est which would signify that the rents had been paid; by the same token he seems to have paid the rent due for the other part of Fawkner's lands in Wiltshire, at least for the year dealt with by this Recusant Roll, 1592. Humphry Bedingfield, a Norfolk recusant, may be taken as a final example of this progress of a recusant changing from personal paying to rental paying in discharge of his fines. The Easter 1587 account recorded him as paying £26 on May 22nd;[3] though it did not give details of the total fine incurred. A little

---

(1) P.R.O. E.401/1851.
(2) C.R.S. XVIII. p.352.
(3) P.R.O. E.401/1841.

less than two years later, on February 21. 1589, the exchequer recorded the receipt of £54.6.8. from the two parts of the lands of Humphry Bedingfield.(1) Thereafter at Easter 1591, Michaelmas 1591, and Easter 1592 there were entries for payments of £18.2.3. each time.(2) In the Michaelmas 1591 account there was a second payment of £36.4.5½(3) which was entered as being paid through the sheriff and was not from the lands seized. There was also a payment in the Michaelmas Term 1590, February 10th, of £113.0.6½d which was direct from Bedingfield and was not a rental payment.(4)

This instance shows us an indeterminate position where the same recusant had lands seized to meet his fines but continued to discharge part of his debts by personal payments to the exchequer.

According to the Recusant Roll of 1593 Bedingfield's lands were in the hands of two people, Richard Weston and John Shelton, who were immediately responsible for the payments to the exchequer.(5) However, the amounts mentioned in this roll £43 per year from Weston and £2.10.0 per year from Shelton in no way relate to the repeated payment of £18.2.3. which was recorded in the receipt books. Weston's entry on the recusant roll lacks the et quietus est which proved that he was defaulting on payments; while the entry for Shelton recorded that he had just begun, 1593, to handle the matter and had made but a single

---

(1) P.R.O. .401/1844.
(2) P.R.O. E.401/1849, 1850, 1851.
(3) P.R.O. E.401/1850.
(4) P.R.O. E.401/1848.
(5) C.R.S. XVIII. pp.222, 226, 227.

payment of £2.10.0. in the Autumn of 1593, which was in fact recorded in the receipt account for the 8th November of that year.(1)

To complete this account of how the receipt book entries show the various clauses of the 1587 act in operation, there is another type of entry which so far as not been mentioned. This was the entry which recorded the payment of money raised from the forced sale of goods and chattels of a recusant. Provision had been made in the 1587 statute for seizure of all the goods and two thirds of the lands of a recusant who did not pay his fines. Where there was land to be taken, it seems to have been common practice to disregard the goods and chattels of the recusant. Sometimes where there was no land to seize, then the goods were taken and sold by order of the sheriff.

An entry in the Easter 1588 account(2) gives an example of this seizure of goods in Lancashire.

Lanc. E. pretio diversorum bonorum diversorum recusantium per magistrum Johannis Radcliffe militem 20° Maii £53.13.4d.

Similarly in the Michaelmas 1589 account there is a mixed entry which states that the sum paid into the exchequer had been derived from both the sale of goods and the rents of confiscated lands.(3) The exchequer gained £152.1.7. on this occasion; again the entry does not specify either the names and number of recusants involved but merely that they were from Lincoln.

In other instances the forced sale of goods appears to have been the first step in enforcing payment of the fine and the confiscation of

---

(1) P.R.O. E.401/1853.
(2) P.R.O. E.401/1842.
(3) P.R.O. E.401/1846.

lands came later. For example £15.18.4. was paid into the exchequer on the 18th of May 1590. This sum had to be raised from the sale of the goods and chattels of Lady Constance Foljamb.(1) On the 19th of May, £34.2.11 was paid into the exchequer from Lady Foljamb's lands which had al o been s ized, and again on the 25th of May a further £34.2.11 was paid on her behalf,(2) presumably from the same confiscated lands in Derbyshire.

The reverse of this process took place in Northamptonshire in connection with Humphry Marriatt, a recusant. The first payment on his behalf was the rent from confiscated lands amounting to £1.3.4., paid on May 4th, 1591.(3) Later, May 18th the exchequer received £42 from the sale of his goods and chattels.(4)

These were only slight variations on the general process of confiscating two thirds of a recusant's lands which predominated in the exchequer policy from 1587 to 1593.

A comparison has already been made between the revenues derived from rents of confiscated lands and that from the straight payment of fines by the recusant himself. These direct paym nts of fines accounted for far the greater part of the recusant revenue over the years 1587-93. Now it is necessary to examine where those direct payments came from? What recusants paid their full fines, and how numerous were they?

Briefly it can be stated that 16 recusants paid £26,679.1.8. into the exchequer between 1587 and 1592.

---

(1) P.R.O. E.401/1847.
(2) P.R.O. E.4 1/1847.
(3) P.R.O. E.401/1849.
(4) P.R.O. E.401/1849.

This is the astonishing picture which lay behind the surface pattern of a general increase in fine paying and in fine payers. A mere handful of recusants was responsible for the great increase in recusant revenue. In the light of this fact, it is misleading in this period to talk of total payments from counties, or of annual totals from all the recusants on th receipt books. What is really significant is this contribution from so few, who alone of all the recusants known to the government paid their fines in full. This group sustained the full impact of the laws of 1581 and 1587. Their payment of fines proved that the Privy Council did intend the penal laws to operate in all their rigour, but their very fewness showed how circumscribed that operation was.

The table below shows how much each of the 16 paid between Easter 1587 and the end of the Easter account 1592. The county entered with each name is the one recorded by the receipt clerks in their accounts and the rank given is from the same source. The order is the order of their first appearance in the receipt books:

Suffolk.	Michael Hare.	armiger	£1,940. 0. 0.
Lancashire.	John Townley.	armiger	1,700. 0. 0.
Sussex.	John Gage.	armiger	2,160. 0. 0.
Norfolk.	Fedinand Paris.	armiger	2,273. 1. 8.
Northants.	Thomas Tresham.	miles	1,773. 6. 8.
Suffolk.	Edward Rookwood.	armiger	2,073. 6. 8.
Lincoln.	William Tirwight.	armiger	2,440. 0. 0.
Hampshire.	eorg Cotton.	armiger	2,619. 6. 8.
Suffolk.	Ldward Suliarde.	armiger	2,220. 0. 0.
orcester.	John Talbot.	armiger.	1,520. 0. 0.
Worcester.	Ralph Sheldon.	armiger	780. 0. 0.
Staffordshire.	Thomas Fitzherbert.	miles	1,14 . 0. 0.
Cornwall.	John Arrundel.	miles	860. 0. 0.
Buckinghamshire.	Thomas Throckmorton.	armiger.	1,120. 0. 0.
Yorkshire.	John Sayer.	armiger	1,060. 0. 0.
untingdon.	Robert Aprice.	armiger	1,000. 0. 0.
	Total ...		£26,679. 1. 8.

The first 9 on this list made payments in the Easter Term 1587;[1] then 2 more appeared in the next term, Michaelmas 1587; then a further 3 in the Easter 1588 term and finally 2 more in the Michaelmas 1588 term. Because these recusants were paying off old debts, fines which had been incurred before 1587, their payments were not always in multiples of £20. For example at Michaelmas 1587 Ferdinand Paris paid £266.8.4 at Michaelmas 1588 266.13.4 and at Michaelmas 1589 266.13.4. George Cotton made two payments of £333.6.8 among others. The reason is stated in the clerk's entry beside such sums. Paris' first £266.8.4 was part of £833.6.8d. which he owed, and John Gage when paying his £250 at Michaelmas 1588 was answering part of a debt of £1,140 which was held against him. None of these large payments of past debts were made after the end of the Michaelmas term 1590-91. Thereafter the entries were for multiples of £20. The most usual form of payment was twice a year, one payment of £120 and another of £140, thus making an annual sum of £260 or £20 per month for 13 lunar months. Term after term these names appeared, the payments ceasing only with death.

From this group the most valuable and the most stable part of the exchequer's recusant revenue came. The nu erous entries of payments from rents might have dominated the account books but this dominance was illusory, the important section of the account was the entries for these few names. The following table shows what part of each term's total came from these 16 recusants:

---

(1) Out of these 9 recusants, 8 had already been paying fines between 1582-86.

	Payments from the '16'	Term Totals
1587 Easter	£1,706.13. 4.	£1,975.16.11.
Michaelmas	3,232. 8. 4.	3,319. 0. 3.
1588 Easter	2,343. 6. 8.	2,699. 0.11.
Michaelmas	4,226.13. 4.	5,286.14.11½
1589 Easter	2,150. 0. 0.	2,968. 9. 6½
Michaelmas	3,866.13. 4.	5,032.12.10.
1590 Easter	1,940. 0. 0.	3,106. 9. 1.
Michaelmas	2,293. 6. 8.	3,363. 0. 8½
1591 Easter	1,760. 0. 0.	2,930.15. 2½
Michaelmas	1,600. 0. 0.	2,803.12. 3.
1592 Easter	1,56 . 0. 0.	2,846.16. 4.
Michaelmas	missing	missing
Total	£26,679. 1. 8.	£36,332. 9. 0.

Who were these 16 people all men, who paid so heavily? It need not be said that they werewealthy, without great wealth such fines could not be paid over so long a period. Their rank as given in the account books placed them among the gentry of their shires. None of them was a nobleman and only three were knighted. The remainder were classified as amigerous. Socially, then, they were indistinguishable frommany other recusants but in some ways they had attracted the notice of the government.

As we have said, these sixteen had paid fines before 1587. These were Cotton of Hampshire - £107.13.4; Gage of Sussex £140.0.0; Hare of Suffolk £440.0.0; Paris of Norfolk £420; Rookwood of Suffolk £60, Tirwight of Lincolnshire £140; Townley of Lancashire £593.6.8 and Tresham of Northamptonshire £300.(1) Thus before the 1587 Act became law this group were already well known to the Council and the Exchequer as avowed recusants who, if they did not pay all their fines,

(1) These totals are calculated from the Receipt Books for the period 1582-87. P.R.O. E.401/1832-1840.

w re well able to pay large sums, and ere obvi us quarry for further ex ctions. In short they wer the sort of recusant whom the 1581 Act had been framed to catch. Having persisted in their r fu al to come to their parish church s for so long th y w re pre-eminently the people who were the core of resistance in their own neighbour ood. Though not nation lly outstanding, their wealth and pr stige in a given county was enough to ake th m a symbol of defiance to t e government and a source of encour gem nt to their less wealthy or more timid neighbours.

The more closely we look at their relations with the Privy Council in th years before 1587 the more this judgm nt is borne out. The nam s Rookwood, Suliarde, Paris and Hare have already b en mentioned in connection with th roy l progress mad by lizabeth in 1587 in Norfolk and Suffolk.(1) These three were among those brought before the Privy Council in August of that y ar and accused of obstin cy in religion, while the progress w s still going on. They were held for some time by the local bishop, to see if th y would conform, but becau e they refus d utterly to do so the Privy Council ordered them to be committed to the common gaol. Ro kwood was committ d out of hand "... for as much as it appeared t at he had not only been conferred withall but for his continuance in the c se stood excommunicat "(2) Pari bec use he ha not been urged to conf rm b fore, by any public offi ial l y or ecclesia tic l, w s put und r a bond of £200 to stay in Norwich and have further conferen e with he bishop on religion.(3)

---

1. F r details of this inci ent see Chapt r II,pp.63-67.
2. B. . Cotton MS. Titus . III. 25.f.74.r.
3. B.M. Cotton MS. Titu . III. 25.f.75.r.

Sulivarde and Hall, at last by 1579, appear to have been committed to gaol by order of the privy council.(1)

Here, in the lives of four of these recusants, is clear evidence of their recusancy carried to such lengths that not even the direct action of the Privy Council had been able to sway them from their resolve. They were not the only ones among the sixteen to act in this way. Among other recusants, who were sent for by the council in 1580 in order to be examined about their religious views, were John Gage, Thomas Throckmorton, John Talbot, Ralph Sheldon, Thomas Aprice, Sir Thomas Tresham and Sir Thomas Fitzherbert.(2) What precisely they were questioned about is not known, but the fact of their continued recusancy must have been raised by the Council in any discussion of their attitude towards the established religion.

Somewhat later, 1581, six of the sixteen were listed with their recusants as remaining in and about London so that they might be called before the council at any time.(3) This time it was Talbot, Tresham, Arundell, Gage, Cowrley and Fitzherbert who were under government surveillance. Such lists only give us a glimpse of the Privy Council at work but always this singles in the same direction; these recusants were considered worthy of repeated examination, or of imprisonment, or house custody, or some form of check upon their movements and their daily lives. Thus they became known personally

---

(1) A.P.C. 15th February 1579 and 15th June 1579.
(2) B.M. Harleian MS. 36, f.2.r.
(3) P.R.O. S.P.12/151/11. In this list it was not that Fitzherbert had recently been found to have a priest in his house.

to the governn nt.

Occasionally the governm nt's concern with one or oth r of these recusants is revealed in letters sent to local sheriffs and bishops. John Gage of Sussex, who was among those called before the council in 1580, was committed to the Fle t prison on August 13th 1580 by order of a warrant from the privy council.(1) The warrant instructed the warden of the Fleet to keep Gage, together with William Shelley, also of Sussex, close prisoners without means of holding conference with any one. The reason for this was not specified but earlier in June of that year Gage had been released from prison on bond until the end of July.(2) The security demanded by the crown had been £1,000. Presumably the government were not satisfied with Gage's conduct or were not prepared to take the risk of his being at liberty to meet fellow recusants and inspire them with his own brand of obstinacy towards the state church. Hence he had been recommitted to prison. However, by August 4th, 1581 the Privy Council was prepared to release him from custody on general conditions of good behaviour.(3) His subsequent payments to the exchequer prove that no change in his recusancy had been effected by these months of confinement.

In a similar fashion illiam Tyrwhit of Vigmore in Lincolnshire was kept on a short lead by the Privy Council. On September 17th 1581 the Council sent a letter to the bishop of Lincoln warning him that William Tyrwight and his brother Robert were doing great harm in their county. (4)

---

(1) A.P.C. 13th August, 1580.
(2) A.P.C. 20th June, 1580.
(3) A.P.C. 4th August, 1581
(4) A.P. . 17th eptember 15 1.

They had been r leased from the Tower in June and had gone home from London to Lincolnshire.(1) Recusants themselves, they attracted all sorts of people to them and persuaded the waverers to remain firm in their recusancy. They were men of character as well as of wealth. To put an end to this disturbing influence in Lincolnshire the bishop was ordered by the Council to place the two Tyrwight brothers under bonds with the condition that they came to London to appear before the Privy Council itself. They duly appeared before the Council, in November, together with a John Thimbleby esquire, also a Lincolnshire recusant, and all three were sent to prison "after some conference with them in the causes for which they were sent for."(2) More than six months later William Tyrwight was still under Privy Council supervision and was on May 11th released for a short period to attend to business matters;(3) this in spite of the fact that he was known to have attended a mass which was celebrated in the Fleet itself while Tyrwight was a prisoner there.(4)

It is unnecessary to tabulate every move of such a recusant as Tyrwight, when precisely he was in close custody or on general release, but with others of this group of sixteen his name appeared repeatedly on government papers. Together with Paris, Aprice, and Suliarde, on a list in Burghley's hand, Trywight's name occurred among twenty-one recusants on whom the overnment wished to keep a closer watch.(5)

---

(1) A.P.C. 13th June. 1581.
(2) A.P.C. 5th November, 1581.
(3) A.P.C. 11th May, 1582. Tyrwight had petitioned for this release. P.R.O. S.P.12/146/17.
(4) P.R.O. S.P.12/152/54.
(5) P.R.O. S.P.12/185/81. 1585.c.

All the evidence points to a continued alertness on the part of the ouncil and to an intransigant recusancy on the part of the subject. Trywight and his like were of that class of recusant known as notorious recusants, who could not at any time be ignored or disregarded by the government.

Living as they did under the watchful eye of the Privy Council they could not hope to escape the demand for a contribution to the light horse scheme in the autumn of 1586. Among the county returns the names of fifteen of this sixteen are to be found with contributions varying from £25 to £100 entered against 12 of them.(1) There was no return made from Yorkshire, which accounts for the absence of any payment from Sayer. Paris and Hare were reported as out of their counties. Sheldon's name did not appear at all in any of the lists connected with this scheme.

The composition scheme which followed on the heels of the light horse contribution involved 13 of these 16 recusants. It is illuminating to see how much they offered of their own accord to be free of the penalties of the 1581 statute, when we know what heavy yearly payments they were to make after the Act of 1587. The highest offer, made by four of them, was £100 per year. John Talbot of Grafton in Worcester offered 100 marks and Edward Rookwood of Euston in Norfolk

---

(1)

Suliarde	£25	Tresham	£50	Paris	-	Aprice	£50
Rookwood	£25	Fitzherbert	£50	Talbot	£75		
Hare	-	Arrundell	£100	Sheldon	-		
Townley	£50	Tirwight	£25	Throckmorton	£75		
Gage	£50	Cotton	£25	Sayer	-		

offered £30. The other offers ranged between £40 and £100.[1] No wonder that the Privy Council did not consider this scheme worth going on with, when with an extra twist of the law they were to be able to extract so much more from this group.

Most of these wealthy recusants were concealing what they could afford to pay either because they considered, incorrectly as events proved, that the law would not be any more rigorously applied than it had been up to that date; or because they did not wish to reveal the full extent to which they could pay, thereby revealing the degree of their adherence to Catholicism. Any offer could be interpreted as the value which the recusant himself set on his freedom from attending the parish church. It was the sort of information that no one would readily supply to the Privy Council. It was equivalent to assessing, in terms of hard cash, one's defiance of the crown.

How far that defiance worried the Privy Council was shown most clearly in its actions when the treat of invasion drew close in 1588. A letter was sent to the Deputy Lieutenants of the counties on January 4th 1588 from the Privy Council. It specified that among other preparations for defence some precautions must be taken with the recusants.

> considering how of late years divers of her subjects by the means of bad instruments have been withdrawn from the due obedience they owe to her Majesty and her laws, in so much as divers of them most obstinately have refused to come to church to prayer and divine service. For which

(1) P.R.O. S.P.12/189/54. There was no return from Yorkshire in this scheme. The offers made by these recusants:

Sulliarde	£40	Tresham	£100	Paris	£30	Aprice	-
Rookwood	£30	Fitzherbert	£ 40	Talbot	100mks.		
Hare	£50	Arrundell	£100	Sheldon	-		
Townley	100	Tirwight	£ 80	Throckmorton	100		
Gage	£80	Cotton	£ 40	Sayer	-		

> respects being so addicted it is hardly bentured to repose that trust in them which is to be looked for in her other good subjects, and it is also certain that such as should mean to invade the realm would never attempt the same, but upon hope which the fugitives and rebels offer to give, and assure them of those bad members that already are known to be recusants.
>
> It is therefore thought meet in these doubtful times they should be so looked unto and restrained as they shall neither be able to give assistance to the enemy nor that the enemy may have any hope of relief or succour by them. (1)

The plan was to put the very obstinate and notorious recusants in prison and

> the rest that are of value and not so obstinate to be referred to the custody of some ecclesiastical persons and other gentlemen well affected, to remain at the charges of the recusant, to be restrained in such sort as they may be forthcoming [i.e. at the call of the privy council] and kept from intelligence the one of the other. (2)

From this it is clear that the Council was not accusing any recusant of individual treasonable activity, but was regarding them all with equal suspicion and alarm. Amongst those so suspected were some of the 16 recusants under discussion. By July 15th, 1588 there were a group of recusants confined to the Bishop's palace at Ely.(3) Among these were Fitzherbert, Arundell, Tirwight, Cotton, Hare, Tresham, and Sulliarde.(4) They were kept under house arrest and not allowed to speak to anyone except in the presence of their keeper. Their wives were not allowed to visit them. They could have servants of their own choosing but their mail was scrutinised by their keeper.(5)

---

(1) G.Anstruther, Vaux of Harrowden. 1953.p.172. citing N.R.S. Finch-Hatton MS 124.f.83.
(2) G.Anstruther. op.cit., p.173.
(3) G.Anstruther, op.cit., p.174, citing Tanner MS.118.f.225. sq.
(4) B.M. Lansdowne. MS. 57/76.
(5) G.Anstruther, op.cit., p.175.

When the crisis had passed they were still under restraint but there was some attempt to arrange their release. On the 16th of October 1588 the Privy Council appointed Dr. Legge, vice chancellor of Cambridge, and the dean of Ely to interview the recusants to sound them on their allegiance to the queen, before their release was arranged.(1) The outcome of this arrangement was that the recusants drew up their own protestations of loyalty to the queen and signed them and submitted them to the privy council. The formula of allegiance, which Tresham put his name to, acknowledged Elizabeth as queen de facto and stated that for no cause at all would he be led to lift up his hand against her. Rather, he protested, he would defend the realm against all comers and would punish all those who sought to kill the queen.(2) The Privy Council must have been pleased with such declarations from the recusants at Ely for on December 1st 1588 the council signified that it received their "verie dutiful protestacion of ther allegance towards her Majestie" and ordered their keeper to send them all from Ely to Lambeth, there to be dealt with by Archbishop Whitgift.(3)

When they had come from Ely to Lambeth with their Keeper, Mr. Arkenstall,(4) the Archbishop of Canterbury ordered them to select a residence within ten miles of London and there ordered them to remain

---

(1) A.P.C. 16th October, 1588
(2) Lansdowne MS. 58/14 printed in Strype Annals III, 564.
(3) A.P.C. 1st December 1588.
(4) A.P.C. 12th December 1588.

without freedom of any further movement. To this end a bond of £2,000 was imposed on each of them.(1) This was so much to the liking of the recusants concerned that on December 31st, 1588, Sir Thomas Tresham wrote to Lord Burghley(2) offering his thanks and the thanks of his fellow prisoners for the influence Burghley had exerted in obtaining their liberty from confinement in the palace at Ely. It was a wordy and lengthy letter but it strikes a pleasant note of civility in the midst of all this police action.

The advantages of the move were soon apparent. By January 22, 1589, John Talbot of Grafton in Worcestershire was allowed to go to his country home for reasons of health.(3) Edward Suliarde was given leave to go to his house in Suffolk at Wetherden in June 1589 in order to arrange for the large fines he had to pay on account of his continued recusancy.(4) Later the same year John Talbot was given leave to go from his house at Clerkenwell into the country for dispatch of business.(5) On June 29th there was a general renewal of bonds governing the greater liberty of residence of eight recusants, two of whom were Sir Thomas Fitzherbert and Michael Hare.(6) In July 1589 George Cotton was requesting leave to go and settle his affairs and make a sale of his lands in Cheshire and Hampshire to meet fines incurred

---

(1) G.Anstruther op.cit., p.176.
(2) P.R.O. SP/12/219/50.
(3) A.P.C. 22nd January 1589, further arrangements A.P.C. 19th May 1589.
(4) A.P.C. 18 June, 1589.
(5) A.P.C. 2nd August 1589. Townley had a similar permission granted to hi on the same day.
(6) A.P.C. 29th June. 1589.

for recusancy.[1] Thus these wealthy Catholics continued to live, never out of the notice of the Privy Council however far from London their private affairs might take them.

With the renewal of the invasion scare in 1590, these recusants were again ordered from their temporary homes and put under close confinement in March of that year. Some went to Ely, as before, and some went to Banbury in Oxfordshire.[2] Out of the sixteen fine paying recusants under discussion, seven went to the bishop's palace at Ely,[3] while seven went to Broughton, the house of a Mr. Richard Fines at Banbury.[4] This was part of a larger check on recusants which the privy council had set in motion on March 7th 1590,[5] by sending letters to the deputy Lieutenants of the counties askirg for information concerning both wealthy and poor recusants with a view to disarming them and using the arms so confiscated to arm her majesty's more obedient subjects. The Council were of the opinion that it was not only the wealthy recusants who were a danger to the government, but that there were many "of the inferior sorte that are assessed at noe fynes or penalties for their recusancie who are likewise evell affected in religion as the rest,"[6] and therefore they had to be disarmed.

As before in 1588, these were precautionary measures against possible recusant anti-government activity. Lists of those restrained

---

(1) A.P.C. 7th July, 1589.
(2) A.P.C. 13th March 1590.
(3) Arrundel, Tresham, Hare, Cotton, Rookwood, Gage, Aprice.
(4) Fitzherbert, Tirwight, Sulliarde, Townley, Paris, Throckmorton.
(5) A.P.C. 7th March, 1590.
(6) A.P.C. 7th March 1590.

in 1588 were used again in 1590 in order to check on all prominent recusants. As Lord Burghley expressed it, in notes of his own, dealing with the problem, all those who "by ther welth and creditt may seme dangerous" were to be restrained and dealt with according to the laws.(1) It was not a question of deeds but of suspicion of unreliability which m the government act in 15 as in 1588.

Against this lack of trust Sir Thomas Tresham wrote to the Archbishop of Canterbury protesting that he and his fellow recusants had given ample proof of their loyalty and in the past had willingly endured whatever treatment had been their lot. Only in conscience had they disagreed with the queen and that was insufficient grounds for depriving them of their liberty on the merest scare of an invasion.(2) Tresham's protest was discounted and he had to submit himself along with his fellow recusants to a further spell of imprisonment at Ely.(3) The Privy Council did not feel certain of their loyalty however much the past might have confirmed it.

Indeed, men so heavily fined as Tresham was, were bound to be suspected of hoping for the removal of a government which saddled them with such financial burdens. By 1590 these 16 recusants had paid £21,759. 1. 8d(4) in fines. No government which had exacted

---

(1) P.R.O.S.P.12/231/103.
(2) G. Anstruther, Vaux of Harrowden. p.178, citing the Rushton Papers, p.5
(3) Releases began to be granted to prisoners at Ely and Banbury from October 1590 onwards. cf. A.P.C. 5th October 1590, 20th December 1590 22nd December 1590.
(4) This figure is calculated from the receipt accounts Easter 1587 to Michaelmas 1590 inclusive.

such a penalty could take the risk of relying on the loyalty of its victims.

This was the irony of the situation. Where the severity of the fines did not break the recusant's spirit it ran the risk of embittering him as the years went by. Each twelve months' payment of fines was a deepening of the rift between the crown and some of its wealthiest and peaceful subjects. If the process of crippling the wealthier recusants rendered them less dangerous, because less wealthy, it also gave such recusants increasing cause to hate the regime under which he dwelt.

Yet, by no single act, nor by any pamphlet had men such as Tresham or Talbot, Townley or Gage, made any violent attack on the laws which oppressed them. None of them put himself at the head of a conspiracy or even a faction in his county. Of such actions the government records are silent. This was not the government's charge against them.

What the Privy Council feared was that these men by their continued refusal to go to church gave such a notable example of disobedience in the state, that they were a public encouragement to others to disobey in graver matters should the occasion arise. No amount of reflecting on the past loyalty of these men could remove the fear of future disaffection from the minds of the Council. The government had embarked on a policy of coercion, and by 1590 they were unable, even had they wished, to abandon it. While the most prominent of the recusants remained unshaken by the full rigour of the penal laws, the government knew that the recusant problem was unsolved.

The dilemma was patent. If wealthy recusants had been treated lightly in the hope of winning their support in matters other than those of conscience, then recusants generally would have concluded that the government did not intend to enforce the law because recusancy itself was of no importance. On the other hand if the full fine was exacted, where possible, then the government provoked greater resistance and greater examples of defiance which could not fail to inspire the whole recusant body. The value of the 1581 and 1587 acts had consisted in the possibility of their bringing the recusants quickly to conformity by attacking their pockets. But once these laws settled down to a slow-drawn-out bi-annual demand for fines they created as much of a problem as they solved. The sixteen names in the exchequer books were proof that the £20 fine was no empty threat, but they were also proof that the government had used the heaviest weapon to hand and yet had not brought the most powerful of its opponents to conform.

Ten years earlier, in connection with the 1581 statute, Burghley had advocated a policy in which he distinguished three classes of recusants;(1) those able to pay the whole fine, those able to pay part, those able to pay nothing. He maintained that from the first class the whole fine must be collected, from the second what could be squeezed out of them, and against the third some measure of imprisonment be used. In this way the penal code would prove effective.

It was not until 1592 that this policy was working satisfactorily. The 16 recusants who paid the full fine every month corresponded to Burghley's first division; those paying rents from lands seized by the crown represented the second division, and the large number of

(1) B.M. Cotton MS. Titus. B.III.f.63r.

of recusants known to the exchequer as convicted recusants but never appearing in the exchequer receipts qualified for the third division. It had taken a decade to achieve this, and the recusant problem was still unsolved.

The exchequer was still getting to grips with the problem of recusancy fines when it initiated the separate Recusant Roll at Michaelmas 1592. Up to that date recusancy fines had been accounted for along with other sorts of crown revenue despite the peculiar difficulties attaching to their collection. With the emergence of a separate roll, the exchequer at once declared a measure of success was not to be lost through inefficiency.

The recusant roll can be taken as the administrative response to the situation as it had developed by 1592 and its compilation is the best corroboration of the system as we have traced it in the receipt accounts. The roll, quite clearly, delineates the various classes of recusants and the various stages of their affairs in the hands of the exchequer barons. A study of that roll is a fitting conclusion to this chapter on the 1587 statute.

The recusant roll has been described as the "annual Exchequer statements of the revenue due from the forfeitures of recusants, recording the audit of the sheriff's accounts connected therewith."(1) As compared with the receipt accounts which recorded what was paid in, the recusant roll recorded what was due to the crown and what steps had been taken to collect it.

---

(1) H.Bowler, "Some Notes on the Recusant Rolls of the Exchequer" Recusant History, iv. 184.

Thus if we examine the entries for Sussex on the 1592-93 roll,[1] we can immediately pick out the three classes of recusants as defined by Burghley. Of the first class, the recusants who paid the full fine, Sussex offered clearly one example, namely John Gage of West Firle. There were two entries made for his name. The first entry[2] mentioned a total of £440 as still owin for various periods of recusancy between 1581 and 1583, but the clerk noted that this had already been paid along with other fines to the amount of £1,140 by 1586 and consequently was no longer to be demanded. This entry shows the slowness and confusion in exchequer methods which the new recusant roll was slowly trying to eliminate.

The second entry against John Gage's name[3] recorded the current fine of £260 for the thirteen months' recusancy between November 1592 and the end of October 1593. The fine was calculated according to the clerk juxta ratam 28 dierum pro quolibet mense contra forman actus parliamenti ... anno 28° [4] In this way £260 was due for a calendar year's recusancy. The entry ended by giving the two dates on which Gage had met this debt, namely on May 23rd he paid £120 and on October 26th he paid £140. Thus Et quietus est was entered against him and for another year he had discharged in full his debt to the crown.

It was not so for the rest of the Sussex recusants who had been convicted of similar absence from church. The large part of the entries for Sussex was taken up with the statement of rents due from

---

(1) This roll is printed in C.R.S. XVIII.
(2) C.R.S. XVIII. 335-6
(3) C.R.S. XVIII. 337.
(4) C.R.S. XVIII. 337.

v ious e t t s hich the crown had take into it p sse sion. In some of the ntries it as the t nants and occupi rs f the part of the state seiz d ho had to pay the sum r uir d through t e sheriff to th exch uer. In oth rs it was a cr wn le ee wh was answ ra le for the amount specified as d e from the state and the lessee was named as the crown debtor, not the recusant w os lands he lessee held.

Altogether 13 recusants were record d as having part of their lands confiscated, of th se 7 ere in the hands of crown l s ees, one of whom was master cook to the Queen, William Cordell, another was a servant in the royal household, John S lisbury, and a third was a valet in the queen's service. Out of these 13 accounts concerning property and lands, five only have the entry Et. quietu est at the end, signifying that the rent due had been paid. The r st were still debtors to the crown an their payments were left over to another term.

By far the largest secti n of the Suss x account was occupied with lists of names of recusant who had be n convicted of recusancy, had not paid their fines and had yet to haveth ir lan s s iz d by the C own. Th re w re 112 such entries bracketed to ther with the words fiat co is io. This meant that the e che uer ad decided to take steps to ass ss the value of their lands preparat ry to claiming t o thirds in part answ r for their fin s. Thre recusant at t e end

of the account were recorded as no lon er being answerable for fines incurred, this was by decision of the barons of the exchequer. The mere indication that a commi sion of enquiry was going to be held, concerning the 112 recusants listed, did not ensure that they would ultimately pay any money into the exchequer. It was but the beginning of a process that mi ht eventually nd in jud nt bein made. On checkin the receipt accounts for ..ug ex aft r 1593, no such large number of entries can be found, Yet such p yments would have appear d if the commissions of enquiry into .he l-nds of these 112 had produced any res.lt. Indeed the total number of paym nts in ary t rm for Sussex, between 1592 and 1595 did not exceed 8. This is a m st important fact, the disparity between those known to the exchequ r as convicted recusants and those who ultimately paid any part of their fines; the latter numb r was no more than a enth of the form r. Th el boration of exch quer organis tion as witnes d in the r cusant roll revealed the abidin inabil'ty of the exchequ er officials to l y hands n recusants' money. Th l rgest class of recusants in 1592 w s still Burghley's third cat gory, th se who could pay no fine at all; or more accurately those who c uld not pay, or could not be m de t pay their fines.

The 1587 Act had certainly increased the amount levied in fines, from the small group of 16 full pay rs nd from the larger body of part-payers. Undoubtedly thi m ant that the we lthier s cti n f the r cusant p pul t'on was subj ct to n attack on its res urces which mi ht le ve it le s re dy and less able to supply a vigorous and assured leadership in th f ture. This w s one of the im-

ponderables in the situation by 1592. Wh t was quite clear was the failure of b th the 1581 a d 1587 statutes to ffect a l rge scale change in th recusant body. Despite the increased exchequer efficie cy there was no si-n that a large secti n of recus nts h?d been induced to change their convictions from fear of financial loss. No single docum nt, no report to the Council, no order from the Council as much as hints at such a development.

Chapter VII.

Prologue to the 1593 Act.

The Parliament of 1589 passed by without any reference to the need to amend the laws against recusants. It was too early then to assess the results of the 1587 Act. However, by the time the next Parliament was called, 1593, the Privy Council and especially Burghley as Lord Treasurer were aware of the limited success of the 1587 Act in opposing recusancy. From no where, either from the counties or from the exchequer was there any sign that the penal code, as it stood, was a sufficient deterrent.

On the contrary reports reaching the central government from 1589 onwards conveyed precisely the opposite picture. Whether they came from Cheshire or Hampshire, Kent or Westmoreland, they told a similar story; the spirit of the recusants was unbroken and the laws were disregarded.

Concerning Cheshire the Privy Council wrote to the Bishop of Chester, saying :

> "we are given to understand that there be within that countrie soundrie obstinate Recusantes against whom noe execucion is used for lacke that the mynisters doe not in their severall cares presente them as they are by the Statute prescribed..."(1)

---

(1) A.P.C. 25th. June 1589. Privy Council to the Bishop of Chester.

Though the year of this complaint was 1589 the difficulty was as old as the resucant problem itself; how to ensure that someone took the first step towards enforcin the law. If the local parsons did n t report who was absent from church, ither to their bishop or the justices of the peace, then nothing c uld be done. The machinery for securing a conviction could not begin to op rate.

If this lack of cooperation at the parish level was age-old, so was the remedy proposed by the Council. The bishop was about to go on a visitation of his diocese, hen e th dispatch of this letter to him at this date, and the Privy Council ordered him to put on oath all the clergy of his diocese that they would thenceforth observe "dulie the presentmente of everie such person so offending the lawes without favoring therein or forbearing anie for what respecte soever."(1) Having thus sworn his clergy to obey the law, the bishop was to see that they carried out what they had sworn to do. The situation, the proposed remedy and the vain hope of future amendment strike a note of futility at this date, yet what else could the Privy Council have devised? This kind of letter urging local officials to greater efficiency w s the stock response of the Council to any report of recusant boldness in the shires. Reports from Westmoreland and Cumberland that people were daily falling away in th ir religious observance and that disorder was creeping in drew the routine Council letter to the Bishop of Carlisl to look into the matter and re edy it.(2)

---

(1) A.P.C. 25th. June 1589. Privy Council to the Bishop of Chester.
(2) A.P.C.13th June 15 9.

The causes of each local recrudescence of recusancy were, by this time, as obvious as the Council's comments on how to deal with them. In Westmoreland, according to information laid by John Waren r of Banisterbridge, the cause was the renewed activity of the seminary priests and Jesuits.(1) He maintained that five or six years ago there was but a handful of recusants in that county. Within the last two years he said the number had risen to a hundred or more. In Other words, the recusant problem was like fire on a heath in summer, no sooner had one patch of trouble been dealt with than another flared up more vigorously than the first. Warener himself told the council,

> "Yf searche be made for any of the said persons[papists, conveyors of letters, harbourers of priests, ard priests themselves] in Lancashire, uppon an howers warninge, they wilbe in Westmoreland, and if search be made there, uppon an others howers warninge, they wilbe in Cumberland." (2)

This was not news to the Council, they had long known of the ability of recusants to ride from county to county. The only remedy John arener could suggest was a "privie searche by vertue of a commission unto some one or twoo trustie gentlemen." His inspiration seems to have been as hackneyed as the Council's advice to the bishop of Chester to put his clergy on oath. The cry was ever one for 'trustie gentlemen' but they were unfortunately not always to hand.

In Hampshire and Kent the trouble arose from another time-old cause, the evil example, to use the Privy Council's expression, of

---

(1) P.R.O. S.P.12/229/26. December 1589.
(2) P.R.O. S.P.12/229/26. Information sent to the Privy Council.

recusants who had been set at liberty by the archbishop of Canterbury under bonds.(1) These people, the Council averred, returned to their counties and promptly stirred up trouble by infecting others with their own obstinacy. In Hampshire the situation was the worse because of the abuses of the undersheriff George Vaux. He had allowed known recusants to go at liberty and had to be called before the Council to acknowledge his error and promise to be more strict in future.(2) In order to remedy the situation the Council wrote to the Bishop of Winchester and the Lord Lieutenant of Hampshire urging them to apprehend the three hundred recusants who were still at liberty in remote parts of the county escaping the law. To help in this the Council sent letters to neighbouring counties commanding that the sheriffs should send back any recusants who fled from Hampshire to escape justice.(3) In the event, effective action was not taken until more than a year later.(4)

At the Quarter Sessions in March 1591, held at Winborne Minster, in Dorset, the course of justice was blatantly perverted.(5) After the Grand Jury had been given "public warning", presumably by the justices of the peace, to present all recusants so that they might be punished, some one with influence had instructed the grand jury not

---

(1) .P.C. 21st September 1589, Council to the Bishop of Winchester.
.P.C. 22nd September 1589, Council to the archbishop of Canterbury.
(2) A.P.C. May 5th 1590, Council to Bishop of Winchester.
(3) A.P.C. May 5th 1590, Council to Bishop of Winchester, and the Marquis of Winchester, and to neighbouring counties.
(4) cf. .P.C. 19th December 1591, Cal.S.P.D.240/42.
(5) A.P.C. March 1591, Council to two J.P's in Dorset.

to take the matter any further, but to let the charges drop. The Council were eager to know who was responsible for such advice and wrote to two of the justices of the pease to find out all the details of this extraordinary contempt for the law.

What the outcome was remains unknown, but the event itself reveals another aspect of laxity and collusion in the administration of the penal code. The Privy Council desperately tried to play watchdog to every county and town in England.

The state of affairs in the North was more alarming. A report submitted to the council in February 1589 gave an account of recusancy in Lancashire. It was entitled "An information touching the state of Lancashire."(1) No fuller description could have been penned of all the weaknesses and abuses to which the penal laws lay open.

The first part of this report concentrated on the laxity of the justices of the peace.

> "The countie of Lancashire is mightely infected with popery. the Nomber of justices of the peace within that countie are but few that take anie care in the reformation thereof. The wifes, children and servantes of some of the justices of the peace of that countie, beinge also cheife officers there, are notable recusantes, & manie of them stand indicted at Lancaster uppon the statute." (2)

From this it would appear that the law at least kept the heads of families from open recusancy, but the next generation and the women-folk were still obstinate. Mere indictment did not imply trial and conviction, and would not scare resolute catholics.

---

(1) B.M. Cotton MS. Titus B.III. 20.f.65.r.
(2) Ibid.

The account continues,

> "There are that stand indicted uppon the statute of recusants eight hundred persons, at the least, within that countie; whereof many of them are persons of good lyvehood in that countie. Few or no recusants within that countie receave triall uppon indictments, and it is verie likely never shall; for that the better sort of re s s, t re, are so linked into kindred and find so greate favor at the hands f hir majesties officers, to whom those causes [i.e. recusancy trials] in respect of there places doe belong, that the better persons are passed over with silence and the poore sort only drawen to question, so that the example to the countie is nothing that ensueth there uppon."

The numbers given in this account do not seem startling when it is remembered that earlier, in 1587 at the July Assizes, Edward Fleetwood, the rector at igan, reported to Lord Burghley that 600 had been presented on oath as recusants.(1) What was important is, that two years later the complaint was that the trial did not go beyond the initial indictment. This made n nsense of the whole legal system. The 1589 report added that no more than four recusants were tried at any one assizes when at least twenty cases could have been concluded. The report, possibly drawn up by Fleetwood as the earlier one had been, commented,

> "If some one or more people are not appointed to try cas s. of recusancy at the assizes at Lancaster, then there is little point in going on with fresh indictments or to hope for any improvement in the county." (2)

Burghley on reading such advice must have considered how easy it was to talk of appointing special judges and holding special sessions but how difficult it was to find the men for the task. For though Lancashire, and Cheshire as t is report noted, might have been in need of

---

(1) B.M. Cotton MS. Titus. B.II. 283.
(2) B.M. Cotton MS. Titus. B.III. 20.f.65.r.

drastic measures, other counties too could claim extraordinary judicial arrangements if recusancy was to be resolutely handled. There was no end to the plea for special treatment.

Finally Burghley's informant pointed to a weakness in the law itself. The 1581 Statute had apportioned the £20 fine in thirds, the first to the queen, the second to the poor, and the last to the informer, who had to sue for it. Thus there was an inducement in money for people to prosecute recusants. The 1587 Act in its provisions for the confiscation of lands had made allowance for two thirds of the estate to go to the crown and one third to remain with the recusant. Thus there was nothing left with which to reward the person who had made the presentment against the recusant and who was vital to the securing of a conviction. The result was that prosecutions were few and, according to the report, would never be many, in Lancashire, unless someone was appointed officially to prosecute on behalf of the crown. Whether this analysis was true or not, the result was unmistakable, the law was held in open disregard and the papists went unpunished.

The Council was obviously alarmed at this report which was not the only one to reach them from Lancashire. Consequently on the 25th July 1590 they dispatched a letter(1) to the justices of the assizes at Lancaster urging the latter to confer with the Earl of Derby on how to remedy the situation. The central government urged the local officials in these words:

---

(1) A.P.C. 25th July 1590. Council to Justices of the Assizes for Lancaster.

> "we are earnestly and in her Majestie's name by her expresse commaundment to require you that you will attend and bestow some good tyme with some extraordinary care at your next Assyses to be held for these counties [Lancashire and Cheshire] concerning the proceding against the said Recusants of whom you shall receave the names of somdrie from the said Erle [of Derby] or from the Byshop of that Dioces amounting in the county of Lancaster above 700, besid 200 in Cheshire, wherof we would that the Justice of Chester [Sir Richard Shuttleworth] were also informed...." (1)

In order to help the judges the Council said that it was sending a special form of indictment which would prove more difficult for the recusants to wriggle out of than in the past. Further the assize judges were ordered to warn the justices of the peace, the custos rotulorum and the clerk of the Quarter Sessions that they must help in preparing of indictments against all the recusants. With these instructions the Council enclosed a letter for the Earl of Derby explaining to him the part he was to play in the drive against recusants. He was to be present at the Assizes if possible, and bring with him any information he had gathered from reliable justices of the peace. He was to see that the full rigour of the law had its course and together with the judges was to select some ten of the principal recusants and send them up to London to the Council as an example to the rest.

> "Of all these our advyses," the council added, "being manie and occasioned to be remembred by the generall defeccion in those countreis, we praie you Lordship to take your accustomed care and to advertise us after the Assyses what course shalbe taken to remedy these enormities...." (2)

This strong directive from London ended in a pious hope that the local magnate would be equal to the demands made upon him; a reliance

---

(1) A.P.C. 25th July 1590.
(2) A.P.C. 25th July 1590. Council to Earl of Derby.

all the more strange in that the Earl of Derby's own household was known to h ve been infected with recusants in the recent past. In this same letter the Council had congratulated Derby on having lately begun to take action among his "owne servauntes and retayners to bring them to conformitie or to see them punished."(1) If the Earl of Derby failed to come up to the mark the Council had a second string to its bow in the person of the Bishop of Chester. He was ordered to prepare a certificate, or a list, of recusants for every assizes in Lancashire and Cheshire from which indictments could be framed.(2) The bishop, it was assumed, would have knowledge of recusants through his consistory courts and by virtue of his role as an ecclesiastical commissioner; this knowledge he was to put at the disposal of the assize judges.

In this way the Council hoped to counteract the widespread disaffection from the state religion. There was not a novel suggestion among the many courses of action outlined but only a mechanical repetition of well-worn expedients. Perhaps the Council had little time to devise any better system of enforcing the law in the North because soon the invasion scare of 1590 dominated all other aspects of the recusant problem. As in 1587 the government took temporary measures to round up the recusants known to it as influential and resolute and to keep them separated from the rest.(3) This was of course the merest police action and did not in any way constitute an important step in anti-recusant policy. However it occupied the sheriff'

---

(1) A.P.C. 25th July, 1590.
(2) A.P.C. 25th July, 1590.
(3) A.P.C. 7th March 1590. Letter to the Deputy Lieutenants throughout the country.

and deputy lieutenants in the counties to the exclusi n of other activity against the recusants.

In March 1590 Sir Thomas Mildmay was reporting the names of four Essex recusants to Lord Burghley, himself , telling him whom they had been entrusted to for safe keeping in 1587-8.(1) The Deputy Lieutenants of Derbyshire meanwhile were ordered to disarm the "inferi r sort" of recusant and distribute the arms to good subjects.(2) Various centres were used as placed of detention throughout the country; Wisbech in Norfolk, Broughton in Oxfordshire, Farneham Castle in Hampshire and the bishop's palace at Ely.(3) Even these pl ns were imperfectly executed, some sheriffs being slow to order people to imprisonment,(4) others delaying because the recusants were in ill health,(5) and at Wisbeach failing to see that the recusants were strictly confined and kept without letters.(6)

By August the crisis had passed if we are to judge by the relaxation of severity at Broughton in Oxfordshire. There Richard Fynes, the keeper of the prisoners, was told to let the recusants ri e out for exercise and to receive visits from their wives.(7) From subs quent events it was clear that the prisoners at Brou hton were in bad health becaus of the summer h t and the lack of wat r to dress their

---

(1) P.R.O. SP.12/131/46. The recusants c ncerned were Thomas Crawl y, Thomas H l s senior, Thomas Hales junior, Rooke reen.
(2) H. .C. 1 S. XI,281. March 9th 1590.
(3) A. . 5th A r'l 1590. Co ncil t Sh riffs of uffolk and Norf lk.
5th Apr'l 159 . ounc'l t ich rd Fyn s at Brought , xon.
7 pril 159 . u il to the Larquis, d th b'sh p f i ch t r.
(4) A.P. . 12th April, 159 . N rf lk.
(5) .P. . 9th April, 1590. Cheshire.
(6) .P. . 28 h May 159 . orfolk.
(7) A.P. . 6th A st 159 . Council Fynes.

meat ith.[1] The co ncil d'd n t approve f this treatment. "For b c se h r Maj stie's m m'ng w s only t hav t e said recusaúntes to be u der safe custody, but not pu ish d in suche sort wherby their health might be impayr d."[2] It w s a comment which throws li ht on the whole year's activities. The le ding recusants had been subj cted to a period of imprisonment without any prup e other than th t of s gregation; in time they returned to their homes[3] r to some other place of freedom unchanged in mind and still a problem for the government.

Not until Octob r 1591 did the gov rnment take any major step to curb the recusants' renewed defiance. Them it c me in the form of a royal proclamation issued on October 18th.[4] It was primarily directed against the missionary priests who had been so active in persu ding the recusants to r ain steadfast in their refusal to go to the Anglican services, while at the same time saying Mass for them and administering the sacraments. Thus the object of the proclamation was twofold, first to order special searches for the capture of the priests,[5] second to discover who were their helpers and friends and thereby reveal the active core of recusants who infected the whole body.[6] Hand in hand with these searches was to go a severe application of the existing laws against anyone not going to church.

---

(1) A.P.C. 14th August 1590. Council to three commissioners appointed to look into the matter at Broughton.
(2) A.P.C. 14th August 1590. ibid.
(3) A.P.C. 5th October 1590. Council to Archbishop of Canterbury to take bonds from the prisoners to be released from Ely and Broughton; also A.P. . 22nd Dece ber 1590.Council to Archbishop of Canterbury. To release Rooke Green from Ely; also A.P.C. 20th Dec mber 1590.
(4) Cal. .P.D.240/42. Proclamation by the Queen for remedy of the treason whic under pretext of religion,have been plotted by Seminaries and Jesuits.
(5) Cal.S.P.D. 240/42. The Proclamation. ection V, VI.
(6) l. .P.D. 240/43. Articl s annexed to the Commission for recusants.

The details of the Commission for recusants, set up in every county, show that the government felt impelled to organise a system over and above existing county administration.(1) Commissioners were appointed in every shire who had to organise a committee of 8 people in each parish, among whom were to be the minister, the constable, and the churchwardens. These parish committees were to go from house to house at le st once a week and question the occupiers on their attendance at church and about the reliability in religion of any lodgers or guests. Those who did not answer satisfactorily were to be sent before the county commissioners for further interrogation. Those helping priests or persons coming from beyond the seas were to be treated as abettors of treason. The straightforward recusant was to have the full measure of the law applied to him. The commissioners of one county were to help those of another by exchange of information concerning fugitive recusants. The proclamation aimed at a new high level of detection; of its language it has been said

> "No puritan could have surpassed in bitterness and hatred the terms in which the missionary priests were alluded to in this proclamation." (2)

However unmistakable its aim, its machinery was weak. At several stages the plan fell back on officials who had already proved unreliable, ministers and churchwardens, for example. Ultimately the recusant had to be taken to the assize courts; to that there was no alternative. And as Burghley knew, the assizes would let many recusants slip through unconvicted. Nevertheless, the commissions soon went out to the

---

(1) Cal S.P.D. 240/43
(2) A.O. Meyer. England and the Catholic Church under Queen Elizabeth.191(p350.

counti s. A draft letter in Burghley's hand dated October 17th 1591, directed the Lord Chancellor to issue the commissions under the great seal, their composition was to be decided on by the Council.(1)

That the whole of this policy was directed by Burghley seems certain. Verstegen, a catholic in exile referred to it as "the new Cecilian inquisition."(2) In the most recent account of these events, Conyers Read says that it is highly probable that Burghley wrote the proclamation himself.

> "Most of the important royal proclamations came from his pen. The sentiments expressed, particularly, the denigration of the missionary priests, smack strongly of his famous pamphlet, published eight years earlier, on the Execution of Justice in England." (3)

In recusancy matters Burghley no longer had the assistance of Walsingham, who had died in 1590 and from whom he had taken over the secretariat.

Conyers Read is at pains to prove that it was not religious hatred, which inspired Burghley to this savage attack on the Catholics, but rather it was the fear of a recusant "underground" movement offering shelter and a net-work to the missionary priests moving about the country as the agents of a foreign power.(4) That this fear always played its part in determining the attitude of Elizabethan councillors towards recusants is undeniable, but at this juncture the fierceness of the new campaign against catholics is more completely explained when it is seen as the product of a statesman weary with years of

---

(1) Hatfield Cal. IV. 148. October 17th 1591.
(2) C.R.S. 52. p.39. Verstegen to Fr. Persons.
(3) Conyers Read. Lord Burghley and Queen Elizabeth. 1960. p.469.
(4) Conyers Read, op. cit., p.469.

nibbling at the problem and enraged at the resilience of Elizabeth's catholic subjects. By the very ferocity of his language and the wholesale interrogation of families, Burghley hoped to instill terror into his opponents.

Unfortunately the plan got off to a bad start. A month after the first commissions had been issued, there had to be a renewal of the commissions for all the counties. In the earlier commissions there had been included "some not so sound in dutie and relligion towards God and her Majestie as is to be required."(1) This suspicion was voiced to those whom the Council thought to be reliable and these were to report on their fellow commissioners who were known,

> "or justlie suspected to be unsounde in relligion, or that have their wives, children or any of ther families knowen Recusantes or doe harbour in their houses any person or persons knowen or suspected to be backward in relligion..." (2)

Thus Burghley's scheme was floundering in a morass of suspicion and doubts before it ever got underway. Yet to keep the machinery turning at all the commissioners, as originally appointed, were allowed to act until new commissions could be drawn up with due regard to the reliability of those named. Early in the new year, 1592, new commissions were sent out for the counties of Kent, Buckingham, Middlesex, Surrey and Durham.(3) By the middle of the year the commissions had been renewed with alterations for 20 counties and 4 cities.(4) It was a major overhaul of the entire scheme.

---

(1) A.P.C. 19th December 1591.Council to the Commissioners for recusants throughout the country.
(2) A.P.C. 19th December,1591
(3) A.P.C. 3rd January, 1592.
(4) A.P.C. 16th January 1592.Cumberland,Suffolk,the Cinque Ports,Notts., City of Oxford. A.P.C. 26th January 1592.Shropshire,Norfolk,Hampshire, Cambridge, Isle of Elie,Gloucester,Hertford, orcester, City of Chester, Stafford, Leicester,Westmoreland,Dorset. A.P.C. 6th February 1592. York Northumberland,Northampton. A.P.C. 4th March 1592.Lincolnshire(Linsey, Kesteren,Holland) A.P.C. 17th March 1592. Sussex. A.P.C. 7th May,1592 Devon

Despite weaknesses the commissioners did carry out their duties with an effect which can be traced in reports sent back to the Privy Council. One from Lincolnshire for 8th January 1592 is preserved in the Lansdowne MSS and gives a picture of all t at happened.(1) Lord Willou by, Edward Heron and Francis Knight were named in the commission to searc1 and find out about priests and question recusants. To help them they called on the assistance of three oth r local gentlemen. Then in every parish they ordered the minister, the church wardens, and one man thoroughly reliable in religion to meet them on the 8th January.

Their report gives in detail what they found out at that meeting. It concerned the recusants dwelling within five wapentakes. The report did not specify how many were actually named by the parish committees, but listed in full the answers of 15 recusants whom the three commissioners called before them in person. All these 15 answered that in conscience they could not attend church, but when questioned about their loyalty to the queen they all said that they would be most loyal and true to her all their lives. They refused, however, to be drawn on their knowledge of Jesuits and other priests, denying that any had come to their houses to convert them. One person, only, the commissioners decided, gave shelter to priests and suspect persons. This, unfortunately, was a lady by the name of Woodhouse who had gone off into the diocese of Norwich. Therefore the Lincolnshire panel salved its conscience by informing the bishop of that diocese that it was his duty to deal with her. The report added that another meeting would be held in three days time to interrogate more

---

(1) B.M. Lansdowne MS. 68/49. An account of an examination of Recusants in Lincolnshire pursuant to a commission for that purpose. January 8th, 1591.

recusants. Of that day's business no account remains.

From Essex the council learnt that the commissioners could not be brought together to agree on a report of their proceedings and that unless there was further pressure brought to bear upon them they would neglect their duty completely.(1) Sir Cuthbert Collingwood, head of the commissioners at Newcastle, reported that all the recusants, within the four districts he was concerned with, had absented themselves and that the sheriff would have to apprehend them upon a warrant.(2) Sir John Forster at Alnwick had to use the sheriff to bring in 48 recusants whom the commissioners wished to examine, but of these only 13 could be found, for the rest the sheriff said that doors were kept shut in his face and no one would answer.(3)

Other parts of the country presented a brighter picture, if the letters of congratulation sent by the Privy Council to various commissioners are any guide. The action of the commissioners in Monmouth, Hereford and Leicester was commended by the Council and they suggested that any recusants who had reformed in religion should be shown favour as an encouragement to the others who still refused to conform.(4) The commissioners at Norwich, including the bishop, were praised even more for their efforts.(5) Indeed the system was sufficiently successful in the eyes of the council for it to be extended to Wales, at least to Carmarthen and

---

(1) P.R.O. SP.12/243/95. Richard Young, J.P. to the Lord Keeper, 1592.
(2) P.R.O. SP.15/32/50. Newcastle Commissioners to the Lord Warden of the Middle Marches. September 23rd 1592.
(3) P.R.O. SP.15/32/59. Sir John Foster and Commissioners to the Council, 7th November 1592.
(4) A.P.C. 19th March 1592.
(5) A.P.C. 25th March 1592.

Pembroke. On June 19th, 1592 the Privy Council drew up a list of seven commissioners for Carmarthen and eight for Pembroke and s nt instructions to the Earl of Pembroke for him to proceed according to the English model.[1] There was obvious need for this. Not only were recusants escaping from the commissioners in English counties by fleeing to Wales, but the Welsh people themselves in these two areas were much addicted to old catholic practices such as making pilgrimages to shrines and holy wells. The Council wanted this stamped out.

Without having to hand the reports of all the commissioners it is impossible to form an accurate picture of the country in 1592. It was undoubtedly alarming. Lord Burghley, when listing matters to be considered at a meeting of the Privy Council in October, proposed the question of how the general revolt of the recusants in the realm, especially in Lancashire, was to be remedied.[2] It is a revealing comment, for by October 15th 1592 Burghley would have known the contents of many of the reports sent in from the shires, and the fact that he still considered the problem unsolved proved that the commissions of enquiry had succeeded in seeking out recusants and in informing the Council of their existence, but not in reversing the tide of recusancy. Burghley was still seeking for a remedy and was disturbed by the situation to the extent of describing it as a revolt of the recusants. Not that he meant an armed defiance of authority, though physical violence was part of the picture, but a general refusal to attend church more serious and outspoken than before.

---

(1) A.P.C. 19th Jun , 1592.
(2) P.R.O. SP.12/253/37. Notes by Lord Burghley of things to be considered. 14th October 1592.

Lord Burghley's notes mentioned Lancashire as the area of greatest resistance and indeed when the reports from there are considered the reason for his anxiety is clear. Before concluding this survey of recusancy in 1592 it will be necessary to look at the state of Lancashire, Cheshire, Derbyshire and Yorkshire to understand how far the councillors and especially Lord Burghley were worried by the condition of religion in the North.

Derbyshire, the southernmost of these counties, was reported on by Robert Bainbridge of Derby, one of the commissioners.(1) He suggested that Derbyshire was infested with recusants because of the influence which the catholic friends of Lord Shrewsbury had in that county. Lord Shrewsbury's house steward was a papist, his chief agent in the county was a known recusant, his land surveyor was a papist, as also were one of his secretaries and the bailiff of the High Peak hundred. This latter region because of the few justices of the peace living there, was, according to Bainbridge, entirely under the domination of Shrewsbury's catholic minded bailiff. With the consequence that about 300 recusants dwelt there in safety.

This situation receives some confirmation in a letter written by a certain Mr. Harper, one of the four people chosen by the Privy Council to advise on the composition of the commission for recusants in Derbyshire.(2) Mr. Harper was writing to friends, unnamed, in order to warn them of what was a out to happen. He told them all that he knew of the Privy Council's plans to hold an enquiry into the whereabouts of priests and the non

---

(1) P.R.O. SP.12/241/25. A note by Robert Bainbridge of Derby.
(2) Hatfi ld Cal. IV. p.175. January 24th 1592. Mr. Harper to -

attendance at church of layfolk. He gave the date when this enquiry would be held and warned his friends not to remain at home. Above all he insisted that Robert Bainbridge was on the commission precisely because of the zeal and thoroughness with which he would act.

What the result of the government's enquiry was in Derbyshire, is not preserved for us in any further report to the council in 1592, but this evidence shows a county thoroughly unreliable from Burghley's point of view

Lancashire, as Burghley himself had noted, was the blackest spot of all.(1) It was the news from that county, and from Cheshire, which had alerted him to the danger of widespread disregard for the law. As the next twelve months went by he must have been satisfied that his reaction to the danger had been timely indeed.

In addition to the report he had of the contempt shown by the recusants for the civil courts and their penalties,(2) he had an account to hand, about this time, detailing the ineffectiveness of the ecclesiastical commission, there.(3)

It had achieved very little. The churches were empty on Sundays; the children were brought up in the old religion; when a sermon was given scarcely anyone attended; marriages and christenings were conducted by seminary priests in private and nothing was done about it; the recusants had their spies about the ecclesiastical commissioners themselves, thus the general public had warning of anything that was planned against them; justices of the peac and commissi n rs held grants of rec sant ' land by

---

(1) P.R.O. S.P.12/253/37. Notes by Lord Burghley of things to be considered, 14th October 1592.
(2) B.M. Cotton M.S. Titus B.III. 20. f.65.r.
(3) P.R.O. S.P.12/240/138. A r port to the council on the state of Lancashire and Cheshire. 1591.c.

private agreement, thus the recusants could plead inability to pay any fine; in all it was a picture of mockery of the ecclesiastical authorities, with the added implication that while Lancashire and Cheshire were thus, the work of the High Commission in Yorkshire could not hope to succeed.

Those who should have been active on the crown's behalf were not. Sir Richard Sherborne, a justice of the peace, was accused with his whole family of being recusants. When occasionally they did go to church they were said to stop their ears with wool for fear they would hear the sermon. Sir Richard himself was reputed to have said he could capture missing priests but he refused to disturb any man in his conscience.(1)

While local officials were being so remiss in their duties, bolder spirits were free to take the lead on the recusants' behalf. In October 1591 the Privy Council was ordering the capture of a group of people who had openly taken the law into their own hands. It would appear from the Council's letter to Lord Derby,(2) about this matter, that two messengers of the crown, engaged on seizing recusants' lands and goods, were

> "in very ryottus sorte resysted and violently sett uppon by one Shepley, a recusant, and his servauntes and sore hurt and maimed, and others evell affected /were/ encouradged thereby to gather themselves together and doe threaten to defend themselves by force against soche course as by due order of lawe ys taken against them for theire willfull dysobedyence." (3)

The Council was outraged at this display of defiance and ordered the Earl of Derby to arrest and send up to London 10 men and 4 women all

---

(1) Cal. S.P.D. 240/140. Effect of the articles objected against Sir Richard Sherborne.
(2) A.P.C. 28th October 1591.
(3) A.P.C. 28th October 1591.

conc rned in this affair. While this matter was still unfinished the Council had further news of three men who rode up and down the county of Cheshire threatening justices of the peace in the execution of their duties.(1) In June 1592 Lord Derby himself had reported "the lewd and foule disorder" which had taken place at the burial of a recusant, Henry Laithwaite,(2) Once again the council insisted on those involved being sent up to London to be examined.(3) Such orders were more easily given than executed. In May 1592 Lord Derby was still unsuccessfully trying to apprehend the attackers of the queen's messengers;(4) and that outrage had taken place in the summer of 1591. What further action he was able to take in any of these matters remains unknown. The Privy Council record contains no reference to a letter either commending his actions or acknowledging the arrival of the culprits sent for.

In other affairs, however, Lord Derby's zeal combined with that of Chaderton, Bishop of Chester, did produce results in Cheshire and Lancashire. Before Burghley launched his scheme of special commissioners to search for priests and recusants in 1591, the Council tried to control the situation in these two northern counties by ordering Derby and Chaderton, in combination with the circuit judges, to hold a really drastic assize which would terrify the recusants. This had been proposed in July 1590.(5) Then the Council had lists of recusants drawn up by the Bishop of Chester,

---

(1) A.P.C. 14th March 1592.
(2) A.P.C. 11th June 1592.
(3) A.P.C. 28th July 1592.
(4) A.P.C. 20th May 1592.
(5) A.P.C. 25th July 1590 (see above p.303)

700 in Lancashire and 200 in Cheshire, on which the local courts were to base their proceedings. Derby and Chaderton went ahead with that work, and when the commission for seminaries and recusants was issued in 1591 they used that as a help to their efforts in the assize courts.

The result of all this activity was summed up in a report for the council early in 1592.(1) It stated that before the special commission had arrived, 941 people had been presented for recusancy either at the Quarter Sessions or the Assizes. Of those presented, above 700 had been indicted. Since the commission had been issued and by virtue of it, 800 people had been presented and of these more than 200 indicted on the statute.(2)

The precise result of these indictments is not given in the report, but early in 1592 the Earl of Derby together with the commissioners was commended by the Privy Council for his dealings with recusants, who had been "offendinge publicklie in the sight of the worlde, as yt seemed, without anie feare of punyshment."(3) The council's congratulations were modified by the remark that what had been begun must be carried out to the bitter end. The full penalty of the law must be exacted. This would suggest that though many stood indicted they were not necessarily convicted and penalised.(4) That had still to come and the Council felt that Lord Derby and the commissioners needed a firm word to make them achieve it. This was especially necessary because, according to the Council's letter, there were many justices of the peace who would object to the full course of the law being directed against the recusants. The commissioners were told to be

---

(1) P.R.O. SP.12/235/4.
(2) P.R.O. SP.12/235/4.
(3) A.P.C. 25th March 1592. Council to the Earl of Derby.
(4) The receipt books of the exchequer show no signs that so large a number of recusants paid fines; it was physically impossible to jail so many.

resolute against such opposition, and to report to the council any justice of the peace who objected.(1)

Despite all these efforts, the Council was still unhappy about the state of Lancashire as late as August 1592. Then it was decided to order the Earl of Derby to commit to custody outstanding recusants. The letter from the Council to the Earl described those whom it wished him to arrest as the important recusants who had a certain esteem among catholics for their steadfastness in religion and who were wealthy enough to command attention.(2) Once again the government had to rely on the expedient of rounding up and segregating the ringleaders. The council maintained in this letter that two main causes had led to the great upsurge of recusancy all over the country. The first was the leniency which had been shown in the past to obstinate recusants. The second was the example of those recusants who had been released from Broughton and Ely, places of confinement in 1590. These had returned home and infected others, "great numbers of such as are of the weaker sort,"(3) with their own erroneous opinions. Therefore such proselytisers had to be arrested and sent to suitable places of confinement which Derby was to arrange, for his Lancashire recusants.

On the day that the Lancashire authorities were issued with this order, similar letters went out to the Lord President of the North at York and to 34 other counties. It was a general resumption of the policing policy which before had been restricted to times of invasion scares. It

---

(1) A.P.C. 25th March 1592.
(2) A.P.C. 7th August 1592. The council to the Earl of Derby.
(3) A.P.C. 7th. August 1592.

was at once an indication of the serious view which the Council took of the situation and an admission that no councillor had any new idea of how to deal with it. Banbury, Broughton and Ely wer to be opened up again to receive not only their former prisoners but any others who were certified to be obstinate and wealthy.(1)

As a device for isolating possible supporters of an invading army, ther had been something to say for this policy. As a reply to an increase in recusancy over the country, and this the council admitted was the problem, it was totally inadequate. It herded the most courageous and steadfast catholics together, where they could encourage each other the more. It did not destroy their influence on the mass of the recusants, for there were always clandestine methods of communication, and unavoidably, it gave the imprisoned the status of heroes, men prepared to suffer for their beliefs.(2)

In Lancashire, the triple attack on the recusants, by trial at the assize, by the special commissioners, and by the confinement of the leaders was further helped by the apostasy of a priest, Thomas Bell alias Burton who turned informer in the August of 1592.(3) He had a great knowledge of the catholic families in Lancashire and supplied this information to Lord Burghley. A document endorsed by Burghley, "October 1592. A catalogue of Recusants and suspected persons in Lancashire out of Bell's book,"(4) contained a list of 200 people,(5) alphabetically arranged under

(1) A.P.C. 7th August. Letter to the Lord Archbishop of Canterbury. Letter to Mr. Richard Fenys (Keeper of Broughton) and to Mr. Anthonie Cope, High Sheriff of Oxon.

(2) By 2nd October 1592 Richard Verstegen was informing Cardinal Allen's secretary "All the Catholique gentlemen recusants that were under bonds and sureties are comitted to prison". C.R.S. LII. Letter XI.p.75. Verstegen to Baynes. Antwerp, 2 October 1592.

(3) D.N.B. Supplement I, p.166. C.R.S. XXXIX. p.233, n.17. He became a writer of anti catholic pamphlets.

(4) Cecil Papers. 168/142. Hatfield Cal. Pt.IV.242.

(5) This total is only an approximation, as some of the entries have after a single name such phrases as "and all his sonnes" and "all his sisters." Some names ar badly faded.

their surnames. The heading to the list described them as "Receavers and fauvourers of jesuits and seminary priests." It was just the information which the government needed to make the work of the local commissioners much easier. Using Bell's facts the Council could check on the reliability of the thirteen gentlemen whom they had chosen as commissioners to handle the apprehension of leading recusants in Lancashire. These gentlemen were listed in a document drawn up in October 1592,(1) together with lists of people to be apprehended by them either as receivers of priests, or as dangerous persons, or merely as recusants. Altogether 53 were listed in these various categories and all these names, with the exception of one person referred to as young Everard, were contained in Bell's list of favourers and receivers of priests. His information at this juncture was invaluable. Even after Lord Derby sent various recusants up to the Council in London, Bell's information was used as a further check on any who might pretend to conform while under the direct eye of the Council. Bell knew personally whether they were sincere or not and could state definitely whether they had been reconciled to the Catholic faith or had sheltered priests.(2)

Similarly his information against women recusants was extremely useful for the government, because it was the womenfolk who seemed most

---

(1) Hatfield Calendar. IV. 240-242. Instructions for proceeding touching recusants in Lancashire.

(2) A.P.C. 19th December 1592. Council to the Archbishop of Canterbury concerning the examination of some people sent upto London by Lord Derby ".. some bearing an outward shewe and countenance to go to the Church and yet are accused by Bell secretly to be Papistes and harberers of priests and seminaries and by them also have been reconciled to the Churche of Rome."

eager to convert and persuade others to recusancy. On the official list of October 1592 directing the Lancashire commissioners to arrest certain people,(1) the last section was a group of 16 gentlewomen. All of these women had been named by Bell as recusants or suspect persons earlier that summer. Among the 200 names Bell had supplied to Lord Burghley, 34 had been wives and 15 widows.

Lord Derby as he looked more closely into the matter found that the women recusants were a major problem. He wrote on January 8th, 1593, to ask the Council's advice on how to deal with them. Some had been put in custody of gentlemen in the county,(2) others had not been touched. The council gave him definite instructions(3) that all of them were to be indicted, not only those whom he had caught but those who were hidden away and could not be arrested. They were to be indicted, and if they did not appear for trial they were to be outlawed "that her Majestie maie receave the benefitt of the penaltie that shall followe thereof."(4) It was stern advice and proves the determination of the council to stamp out recusancy in all, men and women alike. Lord Derby had been doubtful about this course of action since September 1592 when the Council had told him to proceed against the women as against the men.(5)

---

(1) Hatfield Cal. IV. 240-242.
(2) By November 1592 Derby could report to the council that he had imprisoned some widows in the Radcliffe Tower in an area not too recusant. P.R.O. SP.12/243/71.
(3) A.P.C. 23rd January 1593. Council to Earl of Derby.
(4) Ibid.
(5) A.P.C. 2nd September 1592. Council to Earl of Derby.

The repetition of this order showed that the Council had not wavered in its decision as far as Lancashire was concerned.(1)

While the Privy Council and Lord Derby were dealing with recusancy in Lancashire and Cheshire, the Earl of Huntingdon was busy with the same problem in Yorkshire. As elsewhere the special commissions for searching for priests and recusants had been set up in Yorkshire in October 1591.(2) As Lord Lieutenant of the county, Huntingdon had control of these new commissioners. As second in importance to the Archbishop of York he had great sway on the ecclesiastical commission for the Northern Province. This commission had been renewed in 1590 when on January 9th it had been exhibited in York Cathedral at the commencement of John Piers' archiepiscopate.(3) Huntingdon himself had been present at the ceremony. As President of the council of the North, he was the representative of Queen Elizabeth herself in that region. Thus supplied with various powers, Huntingdon was well able to cope with the situation of 1591-93. After a period of not attending meetings of the ecclesiastical commission in person, Huntingdon began again to do so in 1592 to add solemnity to the proceedings and bring greater rigour to bear on the recusants convened before him.(4) His main activity was directing the searches for priests and jesuits which went hand in hand with the drive to stamp out recusancy.

---

(1) In Yorkshire there seems to have been some indecision on the Council's part over the question of imprisonment for the recusant wives of conforming gentlemen.

(2) Hatfield Cal. IV. 148. 17th October 1591, and A.P.C. 19th December 1591.

(3) Y.H.C. R.VII. A.11. f.211.r.

(4) M.C. Cross, "The Career of Henry Hastings, Third Earl of Huntingdon 1536-1595." (Ph.D. Thesis, Cambridge), p.147.

It seems that Yorkshire did not suffer so great an upsurge of recusant defiance around the year 1590 as Lancashire. Perhaps this is explained by the fact that throughout the reign the ecclesiastical commission was more effective in Yorkshire than anywhere else in the northern province. Year by year it pursued its set course against recusants, with occasional bursts of increased activity. However, there is nothing exceptional about the volume of business in the Hilary term of 1590. Between January 20th and February 18th there were 24 cases concerned with various aspects of recusancy and most of those were routine renewals of bonds,(1) giving an extension of time by which to conform. Others were committals of recusants to the supervision of their relations.(2) Four people were committed to prison, two to York Castle and two to the Kidcote.(3) All four had refused contemptuously to attend church and they were to be imprisoned until they conformed. One woman was steadfast in her refusal to go to church until threat of prison was used against her.(4) The she yielded and agreed to attend service. Her husband entered into a bond of £100 to ensure that she would perform what she had promised. It was in all a very average run of cases, not over many and nothing exceptional.

Only a single instance occurred of public contempt for the established religion and this was slight. Hugh Bird appeared to answer for his

---

(1) Y.H.C. R.VII. A.11. f.226.v; 227.r.;219.v; 213.v.
(2) Y.H.C. R.VII. A.11. f.220.r; 226.r.
(3) Y.H.C. R.VII, A.11, f.219.v; 223.r; 224.v.
(4) Y.H.C. R.VII, A.11. f.222v.

offence of erecting a tablet to the memory of his wife and of putting on the tablet the words "Jesus have mercy on the soule of Mary Bird the late wife of Hughe Bird."[1] This was much too public an avowal of catholic practice of praying for the dead to be allowed to pass unchecked. Eventually,[2] Hugh Bird conformed to the will of the court and promised to deface the tablet. He was dismissed without any further proceedings. This was very insignificant compared with the contempt for the laws shown in Lancashire.

The only indication that refusal to attend church was suspected to be on the increase, in 1590, occurred in the House Books of the city of York itself. The aldermen and common councillors decided to elect four overseers for each of the town wards. These overseers accompanied by one constable of every parish were

> "to make diligent search every Saboth day, whether any of the citizens and inhabitants ... do kepe shut their shoppes and shop windows and whether any of them do not orderlie and dutifully resort to hear sermons both forenoons and afternoons."

Similarly they were to make

> "diligent search whether any inhabitants do absent themselves from hearinge divine service at their parish churches on saboth daies and how often they do absent themselves and to present all offendors therin at the generall sessions of peace next after." (3)

These house to house searchers were to be on watch also for anyone playing games or idling in the streets, or enjoying themselves in ale houses. In such instructions one senses the influence of Huntingdon's

---

(1) Y.H.C. R.VII. A.11. f.226,v. 18th February 1590.
(2) Y.H.C. R.VII. A.11. f.249.r. 28th April 1590. Paschal Term.
(3) Y.C.R. Class B. 30. f.162.r-163.r.

puritanism, more especially in the insistence on hearing sermons. A copy of the instructions was given to every one of the people appointed so that they would have no excuse for failing in their work. A monthly report was to be exacted from them by the mayor or the warden of each ward. The House Books contain no record after this date whether such reports were handed in, but there is mention on two later dates., 19th February 1591 and 13 August 1591 of the re-appointment of such searchers for a period of six months on each occasion.(1) This would indicate that the scheme was not without value and success.

Turning to the Quarter sessions records for 1590, the results of this system of overseeing can be judged in terms of the number of indictments for r cusancy. According to the plan laid down by the city council, these Sessions were to be used for the purpose of initiating a process against the recusants. The council had passed its resolution on the 6th February 1590 and there is a steady stream of recusancy cases recorded in the Quarter Sessions records from February 27th(2) onwards.

Between February 27th and October 9th there were 26 people presented and indicted for recusancy. Of these 26 indictments, 8 were for a period of 1 month's absence from church, 6 for a period of 2 months, 2 for 3 months, 8 for 4 mont s and 2 for 12 months. The m jority of those charged were women, 18 of the 26, and they were for

---

(1) Y.C.R. Class B.30, f.226.v. 19th February 1591; f.264.r. 13th August 1591, 31. f.8.r. 6th April 1593.
(2) Y.C.R. Class F. V. f.155.r. Sessio Pacis Generalis. 27th March 1590.

the most part wives of citizens of all stations, one a gentleman, another a miller, a third was an innkeeper, a fourth a merchant. Some were spinsters. Recusancy was not confined to any particular class in York nor to any particular parish. As in earlier decades, the recusants were dispersed throughout the city.

An indication of the level of recusancy in Yorkshire in general in 1590 is found in the Visitation Book for that year. There, as a r sult of an archiepiscopal visitation the number of recusants was reckoned at 806 and the number of non communicants (and thereby possibly catholic inclined people) was 302.(1) Another calculation for the several dioceses of the province of York put the figure at 707 recusants for the Diocese of York.(2) The same source gave a total of 845 for the Diocese of Chester, and 57 for the Diocese of Carlisle, which figures agree with the general reports on those parts of the country around the year 1590. But whereas concerning Westmoreland and Cheshire there was much talk of a great increase in recusancy, there was no indication that the figures in Yorkshire represented anything but the normal level of recusancy. No one is to be found writing to the Privy Council stating that any novel situation had developed in the recent past. If Yorkshire recusancy was a sizeable problem in 1590 it was only repeating the situation of 1570 and 1580. As Dr. Cross has written, "One of Huntingdon's main tasks in the North was to enforce the religious settlement."(3) And that had always been his

---

(1) A.G. Dickens, "The Extent and Character of Recusancy in Yorkshire 1604." Y.A.J. 37. 1948-51, p.28, citing The Visitation Book, 1590.
(2) P.R.O. S.P.12/235/25.
(3) H.C. Cross, op.cit., p.132.

task, during every year of his office as Lord President of the North.

Nevertheless, by 1592 there does seem to have been a vigorous drive to break the resistance of the Yorkshire catholics. Huntingdon himself went to Durham and Newcastle with an itinerant ecclesiastical commission court to seek out recusants. A contemporary description spoke of this course of action thus,

> "The president /Huntingdon/ there for intending, about Lammas' sise following (which was An Dom.1592) to assault the constancy of catholics by a more cruel and fierce onset than before, sent out his process and precepts abroad, commanding, not only the catholics, but also such as, being comformable themselves, had their wives recusants, that, upon peril of further inconvenience, they should make their appearance, and present themselves or their wives before him and the rest of the commission at Durham, or Newcastle."(1)

This was in August 1592, earlier in April he had sat in person in the court of High Commission in York. There also the main purpose was to attack the constancy of the women recusants. On April 14th 1592, Lady Constable, Mrs. Hungate, Mrs. Ingleby, Mrs. Babthorpe, Mrs. Lawson, Mrs. Metham appeared before the High Commission.(2) They had previously been placed with certain families under a mild form of custody in an endeavour to reform them. Now Huntingdon, on finding them constant in their resolve to avoid church, ordered them to be placed under strict imprisonment in Sheriff Hutton Castle.

This confirms Father Holtby's account of Huntingdon's proceedings in Yorkshire. Holtby mentioned that the men whose wives were treated in this fashion were:

---

(1) M.A. Tierney Dodd's Church History of England. 1840 III, 102 citing Stonyhurst MSS. Ang. A.ii.12. Father Holtby to his superior Fr. Garnet. 1594.

(2) Y.H.C. R.VII. A.12. f.55.r.

> "of the best wealth and worship ... as Sir Henry Constable, Philip Constable, Thomas Metham, Ralph Babthorpe, Henry Cholmondeley, William Ingleby, esquires and knights sons all; Mr. Ralph Lawson, Marmaduke Cholmondeley, Thomas Barton, Lister, Palmes, Holtby, Hungate, Vaux, Salvin in Yorkshire and, in the bishopric of Durham, Henry Lawson, Henry Killingale, Francis Trollope, George Middleton, Charles Hedworth, Fulthrop, Whitfield, Erlbery and divers other gentlemen ... as also others of meaner calling." (1)

Quite clearly the Earl of Huntingdon saw that the real resistance and threat to the future lay in the steadfastness of the womenfolk. The heads of families, the men, might outwardly conform, but if the mothers and children were all the time being nourished and strengthened in catholic belief and practice, there would be no end to the recusant problem. Huntingdon was determined to attack the recusant wives and widows, and not to give up until they had been reformed and forced to attend the protestant services.

He opposed any tendency on the part of the Privy Council to release the imprisoned women after a brief spell of confinement. To be successful the policy had to be carried through to the bitter end. On July 24th 1593 more than a year since Huntingdon had first called the women recusants before him, there was a letter sent to him and the council of the North, from the Privy Council, to adjust the matter of continued imprisonment. The Privy Council wrote to say that they had no knowledge of

> "letters procured from some of us unto you for the settinge at libertye of divers gentlewomen being recusantes, upon pretence of the conformitye of theire husbandes." (2)

Therefore they ordered Huntingdon to keep the wives still in prison

---

(1) M.A. Tierney, op.cit. III, p.122.
(2) A.P.C. July 24th, 1593.

until it could be checked if the Council had sent any such letter ordering their release.

There can be little doubt that there had been such a letter, for the Council record shows that on June 19th 1593 there had been a letter sent to the Earl of Huntingdon and the archbishop of York to order the release of the wives of five gentlemen.(1) These gentlemen had petitioned the Privy Council for this. Their wives had been in prison for over fourteen months. Eventually the wives were released on bonds taken out by their husbands, who had to ensure that they would not let missionary priests visit their wives, that there would be prayers held in their houses and some endeavour made to persuade the women to conform.(2)

This was not a problem peculiar to Yorkshire, rather it was an alarming feature of the recusancy situation everywhere. A letter from the Privy Council to the archbishop of Canterbury on January 7th 1593 shows what view the government took of this phenomenon:

> "Whereas we have given order in diverse partes of the realme for the restraint of such principall gentleweomen, wives, widowes and others as have ben found to be obstinate Recusantes, in respect that besides other disorders growen by their libertie, their children and familyes by their example have ben corrupted in relligion, and understanding that there be divers gentleweomen of this sorte within the counties of Surrey and Kent, and elsewhere, wives to sondrie gentlemen of good accompte, we have thought good to praie and requier your Lordship that by your care the like course maie be had within the said counties and elsewh re for restrainct of suche gentlewomen..." (3)

---

(1) A.P.C. 19th June 1593, also A.P.C. 18th March 1593.
(2) M.A. Tierney, Dodd's Church History of England 1840. 111. 125-126, citing Stonyhurst MSS. Ang. A.ii.12. Fr. oltby to Fr. Garnet, 1594.
(3) A.P.C. 7th January 1593. Council to Archbishop of Canterbury.

Four months earlier the Council had ordered the bishop of Salisbury to imprison any wives of gentlemen or any "women of countenance" who encouraged others to be recusants.(1) In Northamptonshire the government advised the commissioners for recusants to imprison some five or six of the leading women recusants as an example of severity to frighten the rest.(2) The difficulty arose when, as in Dorset,(3) the local authorities were divided in opinion on what to do about these recusant wives, then there had to be an appeal to the Privy Council to get an ad hoc ruling on the question. Even the Pricy Council were uncertain how far the law could be made to apply to wives, or the conforming husbands of recusant wives. Could the husbands be held liable for the fines for their wives' recusancy? To settle the matter the judges were consulted early in 1593 to see what they would say.(4) The evidence for their decision is only indirect. Throughout 1593 the Council went ahead advising various commissioners to imprison women recusants, widows and the wives of non-recusant men, in order to bring them to conformity.(5) Of fining their husbands there was not any explicit mention in letters from the Council.

However, a permanent solution was difficult to reach and the Council were still without one when parliament met in 1593. What to do with women recusants, wives, daughters or widows, was a question puzzling to

---

(1) A.P.C. 30th September 1592.
(2) A.P.C. 14th September 1592.
(3) A. .C. 10th September 1592.
(4) A.P.C. 10th September 1592. Council to Viscount Howard, the plan for consulting the judges in the next term was mentioned in this letter.
(5) A.P.C. March 8th 1593. Council to Commissioners for recusants in Lancashire. A.P.C. 25th June 1593. Council to the Earl of Derby about women in Lancashire.

Elizabeth's advisers and aroused keen interest among the me bers of the 1593 Parliament.

Before we examine the proceedings of that parliament we must conclude the account of the Yorkshire situation in the years 1592 and 1593. The Lord President's attack on the catholics was in accordance with the royal proclamation of 1591 which had urged a search for priests who were ministering to the recusants. The information which the apostate Bell had supplied to the government about Lancashire was paralleled by reports from another renegade priest, James Young alias Dingley, who knew the north east very well.(1) The need to catch as many as possible was so important that the Council sent a special letter in July 1592 to Huntingdon ordering him "to use all the best and moste secreate meanes"(2) for their capture.

The houses where priests were suspected to shelter were to be thoroughly searched and anyone who harboured them was to be charged and tried on that score. The Council supplied Huntingdon with the names of priests whom it thought might be in Yorkshire,(3) having escaped from the search which the Earl of Derby had held in Lancashire in November 1592. According to Derby's report(4) to the Council, letters had been sent from Hertford to the Lancashire gentry warning them that a search was planned. Moreover it had become known that Bell had turned informer and this had put the recusants on their guard.

Despite this setback, Huntingdon in Yorkshir threw himself into the work of priest hunting with great energy. Dr.Cross, commenting on his zest(5)

(1) Cal. S.P.D. 242/121. Cal. S.P.D. 243/6, 88.
(2) A.P.C. July 15th 1592. Council to the Earl of Huntingdon.
(3) A.P.C. December 13th 1592. Council to Earl of Huntingdon, the names are not entered in the council record.
(4) Cal. S.P.D. 243/71. The Earl of Derby to the Council.
(5) H.C. Cross, op.cit., p.161.

writes that the catholics of the time do not seem to have exaggerated his industry in searching and examining, in riding for miles and rallying the protestant gentlemen to his support. A year after the events actually took place Father Holtby wrote to Father Garnet, his superior, giving him some idea of what had happened.

> "This year being the year of our Lord 1593, upon the first of February, at night, until the next day at 9 o'clock, being Candlemas-day, there was a general search made for catholics all over Yorkshire, Richmondshire, Cleveland and the Bishopric of Durham, and Northumberland, wherin all the justices of the peace and others of authority, with such as favoured the heretics' cause, together with the ministers themselves, did flock together entering the houses of the catholics, and all such as were suspected to favour their cause, in great numbers, that it is hard to say how many were abroad that night in searching ..." (1)

This was not a search for recusants, but for priests and their friends, those who sheltered them or provided them with horses and carried messages for them. A seminary priest, Anthony Page was taken during this search,(2) and later executed at York, 1593.(3) Such w s the problem facing Huntingdon; missionary priests fresh from continental seminaries setting light to another decade of recusancy; keeping the spirit of refusal constant; ensuring that another generation should learn the ways of its forebears.

Two more seminary priests, Lampton and Waterson, were apprehended in Northumberland about Midsummer 1592.(4) John Boast, another priest, was captured on September 10th 1593,(5) and John Ingram, in November 1593

(1) M.A. Tierney, op.cit. p.118, n.1. citing Stonyhurst MSS. Ang. A.i.74.
(2) M.A. Tierney, op.cit. p.118, n.1. citing Stonyhurst MSS. Ang. A.i.74.
(3) CRS. LII, p.164. Letter XXXVII.
(4) C.R.S. LII, p.79. Letter XII.n.7. Verstegen to Persons, October 1592.
(5) P.R.O. SP.12/245/131. Anthony Atkinson, informer to Cecil. October 24th, 1593.

at Berwick.[1]

It is not to our purpose to follow in detail the course of Huntingdon's dealings with these riests, suffice it to say that the hunt reached its climax at the Assizes held at Durham on July 24th, 1594, when John Boast and John Ingram priests, and Swallowell, a lay helper of theirs, were condemned to death.[2] Lampton was executed in the July of 1592 and Waterson in January 1593.[3]

These executions carry out account beyond the opening of parliament in February 1593, but they were an integral part of the anti-recusant policy which preceded that parliament. Indeed if there are two features which emerge from the picture presented to the Privy Council in 1593 one was certainly the prominence of recusant women and the other was the impact of the missionary priests.

Some time in 1592, not earlier than April, the Council tried to assess the extent of the recusant problem by drawing up a list of those recusants who had been dealt with by the special commissioners appointed in 1591 in all the counties. A letter from the Council to the Earl of Huntingdon, 25th April 1592, reveals that they were not satisfied with the somewhat vague report he had submitted but they demanded details. The request was that Huntingdon should send:

---

(1) M.A. Tierney, op.cit. p.132, citing Stonyhurst MSS. Aug.A.ii.12.
(2) M.A. Tierney, op.cit. pp.134-184. Boast was executed at Durham, Ingram at Gateshead, Swallowell at Darlington.
(3) C.R.S. LII, p.79, Letter XII, n.7. Verstegen to Persons.

> "the severall names of all suche persons as are in that countie reputed for recusantes, and of wha behaviours and qualities they be of, and howe you finde them in opinion to be obstinate or otherwise dangerous, or to be suspected for theire alledgaunce and dutie to her Majestie and the State, and what good you have done in reforminge anye of that sorte since you have dealte in the same commission, to the ende her Majestie maie see th\ effecte that the saide commission hathe by your indevours and paines brought forthe in that contrie, as God be thancked it hathe brought forthe good fruite in other counties of the realme."(1)

From this letter it is clear that other counties had given reports on the success of the special commissions for examining recusants. The Council were anxious to have as complete a survey as possible, though unfortunately we have no documents which can give us the picture as fully as it was known in 1572. All that remains of this Privy Council assessment is a list in Hatfield MSS which is the merest outline of the situation.(2)

It is a list of male recusants only, of the rank of gentlemen, esquires and knights and it would seem most likely that it represents a synopsis of the information sent to the Council from the various county commissions for recusancy. The categories under which the names are listed, at liberty, in prison, on bonds, represent the state in which the commissioners had left the recusants after examining them, urging them to reform, starting the process of law against them and, in some cases, obtaining a conviction.

As in any list of recusants there were omissions. There is no

---

(1) A.P.C. 25th April 1592.
(2) Hatfield Cal.IV, p.263-275. Endorsed, "Names of Recusants".

record of an entry for Shropshire and Derbyshire under the Diocese of Coventry and Lichfield - the list was compiled on a diocesan basis and may have been the work of the bishops using the information supplied by the county commissioners. There is no indication on what grounds names were included or omitted, nor even if the list was a final account or a temporary rough assessment.

In all 476 names were recorded, 129 were on bonds, presumably for good behaviour or perhaps under promise to conform by a certain date, 63 were in prison and 359 were at liberty. The Essex return included, over and above the three categories, a group of 8 who were stated as "stand indicted".

What do these totals reveal? The figure 476 was considerably greater than the lists of recusants which the government had handled in 1586-87 in connection with the Light-Horse scheme and the Composition scheme. Then the totals had been 216 and 317 respectively, and included women recusants. The total number of recusants paying fines into the exchequer between 1587 and 1593 was 167, a much smaller number than that of this list of 1592. Indeed there seems to be little connection between this list and those named in the exchequer receipt books. The names in the receipt books, with few exceptions do not occur on this list. Moreover the earlier lists of 1586-87 do not include the names found on the 1592 list. In the case of Lancashire, the names which Burghley compiled in 1592 from Bell's information do not appear on this list.

What this list of 476 recusants appears to signify is an almost entirely new group of recusants (at least 400) whom the government considered to be of more than average importance and whom the recent anti recusant activity had brought to light. This is not to say that these recusants had not previously been dealt with by local ecclesiastical courts or at assizes, but that they had not been taken as a body and considered by the Council as a significant part of the recusant population. It was a fact which must have confirmed the seriousness of the situation and raised the question, in another form, of how effective were the laws which since 1587 had been in force.

Not only had the penal code failed to stamp out recusancy, but through its failure had produced a more strongly rooted form of the same offence. The Privy Council in 1592 was faced not with the problem of how best to adjust the penal code in order to complete a task almost achieved, but rather of how to tackle the fundamental problem of imposing a state religion on all, when defiance of that religion repeatedly attracted an irrepressible minority.

CHAPTER 8

The 1593 Act

Before parliament met in 1593, the Privy Council were already considering how they could strengthen the penal code with additional statutes. Sometime before the end of June 1592, it seems that the Council submitted a series of articles on recusancy to the judges for comment. Eventually these articles were returned to Waade, clerk of the Council, from Lord Chief Justice Popham who had appended the opinion of the judges to each section.(1)

These articles covered thirteen aspects of the recusant problem as it then presented itself to the Council. It was not an exhaustive consideration of the question but it did raise points which could be legislated for in the future.

For convenience of analysis, Popham's report may be divided into five sections; in the original the items follow without any discernible sequence. The first section, comprised by six of the original items, covered the problem of the recusant household as a unit of resistance.(2)

---

(1) B.M. Lansdowne MS. 72/41. f.117r.-119r.
(2) In the original, Articles 1, 2, 3, 6, 7, 11.

The second section was more specialised and dealt with the problem of the large number of recusants in and around London.(1) The Council's policy of ordering recusants to stay near London for questioning produced this local difficulty. The third section was concerned with legal abuses of the statutes in operation.(2) And lastly one article raised the question of the treatment of recusants who paid their fines but claimed immunity from any further government control.(3)

The first section dealing with recusant households declared that in many ways they were untouched by the laws of 1581 and 1587. The judges said that in many households the children, servants, schoolmasters and wives lived as little communities which fostered catholic belief and practice. Popham described them as little seminaries of catholic teaching, only if they were reduced in numbers could the government safely leave them in existence.

The report considered that it was essential that the children and young servants should be removed from such homes and educated elsewhere in a strong anti-catholic atmosphere. The government must destroy the recusant household by removing the young and preventing the baptism of any new child by a catholic priest. In this way only, could the future be secured. On this Popham and his fellow judges were agreed.

Indeed it was the obstinacy combined with the youth of some of the

---

(1) In the original, Articles 4, 5, 9.
(2) In the original, Articles 8, 7, 12.
(3) In the original, Article 13.

recusants which had alarmed the judges and led Popham to endorse their comments with the words,

> ....we fynde in our circuytis some most obstinate and yet not XXX^tie yeares of age, and I se/e/ no waye to reduce these to better conformytie and obedyence unless it may seme good to the Lords /of the Council/ eyther to have them detayned in close prison under severe custodie at ther parentes' charde,/sic/ where they may do no harme or to have the othe mynistred to some of them the first and so the second tyme and by that ensample executed towardes some, others happelie may reforme them selves. (1)

Here was a damning comment on the recusancy laws. Popham proposed prison or the death penalty(2) as a means of breaking the spirit of the younger recusants. It was an admission that the system of fining their parents had not succeeded in scaring a new generation away from the old religion.

Popham was inclined to view the existence of numerous servants in a catholic household as the root of much evil. Whereas it was possible to keep some check on the members of a recusant family, it was only too difficult to tie down the servants. They could leave at a moment's notice and, with the connivance of their masters, no one could find out where they had gone. This in Popham's opinion was the sure way "to corrupt multitudes. Once again the administration of the oath of allegiance, for a first and a second time, in order to make an example of a few servants, was the considered advice given by the Lord Chief Justice. It is interesting to see how readily the death penalty was invoked as being the only deterrent likely to succeed. The judges advised the Council to forbid catholics

---

(1) B.M. Lansdowne. MS. 72/41. f.118r. Article 5.
(2) The second tendering of the oath carried this penalty for refusal.

to change their servants or alter their households without leave from some authorised body such as the local commissioners or the bishop.

The whole tenor of these proposals was that no private life was to be left to the recusant family. From baptism to the grave every move, every association, was to be watched and vetted.

The same attitude characterised the section dealing with the special problem of recusants in London. Because many recusants had to be in constant attendance on the Privy Council or the High Commission, they had taken to living permanently in certain parts of London. The report mentioned Holborn and Clerkenwell as the most notorious recusant enclaves. The danger arose from their contact with the many people who thronged the capital. It was a perfect place for proselytising and making contacts. It would be far safer, said the judges, to have them dispersed to remote parts where they could not meet anyone.

With a view to clearing up another black spot in London, the judges advised a thorough search of the Inns of Court. Because of the exemption they had enjoyed from the recent commissioners to search for priests and recusants, many recusants had taken refuge there. They would have to be rooted out and forced to conform.

The fugitive recusants, those who rode from county to county and claimed to have no fixed home, were the object of the report's special concern. They openly defied the law, challenging its officers to find them, refusing to appear in court and riding away from the judges as they went on circuit. Perhaps with personal chagrin as well as public

zeal, the judges urged that this class of recusant must be kept in close confinement whenever caught, and if not caught they should be proclaimed as fugitives and their livings seized by the crown.

Harsh treatment was to be the lot of all recusants. Anyone pretending to conform and agreeing to conferences about religion, with the hidden intention of playing for time, was to have the full punishment of the law, the fine or prison, inflicted on them. Even those who paid the fine were not to be immune from further restriction. Popham agreed that by statute they could not be subjected to any further penalty but that by the order of the Privy Council or of the local commissioners, they must submit to conferences on religion, or even to some measure of confinement if their being at liberty was a dangerous example to others.

All this, it must be remembered, was the considered report of the assize judges summed up by the Lord Chief Justice. It showed how serious a view they took of the situation in 1592 and how great was the problem which faced the Council.

It is interesting that another analysis of the recusant problem, drawn up at this time and attributed to Topcliffe, corroborated the findings of the judges.(1) His main concern was with the influence of women recusants, whom he held to be by far the most intractable and who even might become so many Judiths to cut off the head of their sovereign.

---

(1) B.M. Lansdowne MS. 72/48. f.157r. It is Calendered as: A discourse of an unnamed person, but most probably Topclyffe, concerning Papists etc. and the best method of dealing with them, 1592. Endorsed. "A simple mans opynion towchinge the most perilloos and dangerous recusantes & dissemblinge papistes throwgheout Englande."

This was rather fanciful,but a more sober comment on these women shows that he was not blind to their real power, "and seinge farre greater is t e feurye of a womann once resolved to evell, then [than] the raidge of a mann, I humbly besiche your Lordship that that sexe of womenn bee not overlooked."(1) Quite rightly he argued that it would not be possible to imprison all the recusants in England, they were too many, but he felt that really severe imprisonment of the "woorst spyrrites," men or women, would be a wise precaution.(2)

His views on the gathering together of recusants in prison coincided with those of the judges. The recusants should not be collected together in one great enclave. He cited the policy of 1588 as an example of how unwise it was to gather recusants together at Ely, where they were near their friends and in contact with their families - a perfect situation for them to gather courage and enthusiasm for a revolt had they so wished.(3)

Above all he pointed to the great loophole in the policy against recusants. There were families whose head conformed and thereby sheltered all the rest, wife, children, servants and guests who continued as catholics. Topcliff maintained that such conformity by the head of the family was insincere, a mere cloak for sheltering priests and educating the children in the old beliefs. The only remedy, the judges had seen this, was to attack the entire household by removing recusant wives to prison, putting the children under the care of ardent prote tants, and drastically reducing the number of servants.(4)

---

(1) B. . Lansdowne MS. 72/48. f.154r.
(2) B.M. Lansdowne MS. 72/48. f.154v.
(3) B.M. Lansdowne MS. 72/48. f.155v.
(4) B.M. Lansdowne MS. 72/48. f.155v.

In view of the bills which were to be sponsored by the government in 1593 it is interesting to note how these two reports insisted that the recusant family as a unit must be destroyed. It was no longer considered sufficient to fine the chief male recusant of a family, the other members too must feel the pinch of persecution. Masters must be made responsible for the religion of their servants, and women must no longer hide behind the frailty of their sex. The immunity of recusants under sixteen years of age had to be swept away. Root and branch the recusant families were to be destroyed. To do less was to leave catholicism a living force in England.

Measured against advice of this quality and judged in the context of the situation as it was in 1592, the government measures introduced into parliament in February 1593 do not surprise us either by their harshness or their comprehensiveness. They were realistic measures demanded by the stubborn logic of facts; the inevitable climax to a policy which had been chosen in 1581. Their appearance is easily understood; it is their subsequent fate which is baffling.

For the sake of clarity the two measures proposed by the government will be studied separately, though they were handled by parliament at the same time.(1)

The first bill, "An Act for the reducing of disloyal subjects to their due obedience" was introduced in the House of Commons on February 26th, 1573.(2) It contained fifteen clauses and has been described in

---

(1) J.E. Neale, op.cit. ii. 280-297, for all details of this parliament.
(2) J.E. Neale, op.cit. ii. 280. Also Hatfield Cal. IV, pp.298-9. A Draft Bill with 12 sections.

the following terms:

> Catholics were to be treated as an alien pest in society; immobilised, rendered impotent by virtual expropriation and exclusion from all influential vocations, and eradicated in a single generation: though it must be added that Tudor laws were often intended to be held in terrorem over offenders, and were neither expected to be, nor capable of being, rigidly enforced. (1)

The bill did not increase the statutory fine beyond £20 per month, rather it by-passed that penalty by declaring that all recusants who did not submit by June 1593 would have to forfeit two-thirds of all their lands and all their goods and chattels. This new provision made no exemptions, it was to apply indifferently to those who were already paying all their fines or paying part of them, as well as to those who had avoided payment. It included widows and spinsters. Recusant copyholders were to forfeit two parts of their copyhold.

This forfeiture was to be for life, thus the bill excluded any need for future conviction of a recusant. All the law required was proof that a recusant had not submitted by June 1593 and would not submit when challenged. There was to be no need to prove absence from church, time after time, for specific periods. In short, the process for conviction was greatly simplified. An informer could lay the charge in any court that a certain person was a recusant and had not conformed by the date laid down. After that it was the accused's part to refute the charge and show his conformity.

In addition to this, all recusants who persisted for two months in their refusal to conform, after June 1593, were to be held unable to inherit any estate or buy land or make any conveyance of land to their

---

(1) J.E. Neale, op.cit. ii. 281.

wives or children, and all past conveyances made by such recusants were to be held as void. Recusant wives were to be deprived of their dowers and jointures and any man who took a recusant woman as his wife was to lose two-thirds of his inheritance. Children, male or female, over seven years old, were to be taken from their homes and, at their parents' expense, educated wherever the Privy Council, advised by the justices of assize, or the local bishop, decided.

For every recusant servant in a household, the master was to pay a fine of £10 for each month the servant remained there. The same fine was to apply to any recusant guest or visitor in a house and possibly to recusant wives.

The only way in which to avoid these penalties was by open declaration in the parish church whereby the recusant renounced the pope and the popish religion and showed himself penitent for his fault.

It was a penetrating measure touching every type of recusant and simplifying the procedure for conviction to the minimum. Its adherence to the main points in the judges' report, cited earlier, leaves little doubt of its origin. By comparison, the earlier laws of 1581 and 1587 seem complicated and cumbersome. This was a brutal measure in its disregard for the recusant's right to any place in the state. It was, by the same token, a measure which would have smashed, once for all, the recusant body in England. Put into the hands of the commissioners for recusants it would have shattered family after family in a very short time. The commissioners for searching out priests and recusants already

by virtue of the 1592 proclamation had the right to seek out recusants, to question people in their homes, to check up on guests and servants in suspect households. This bill if it had become law would have given them a swift method of convicting those adults whom they found and of removing any minors to protestant families.

The judges had done well in their drafting of the bill, the government introduced it into the Commons, the situation demanded such a measure - but the bill failed to become law. It was the strangest event in the whole story of Elizabethan recusancy. In his account of this parliament, Neale offers a two-fold explanation for this unexpected result; on the one hand open support in the Commons for reducing the harshness of the bill against Catholics, and on the other the struggle between the Puritans and Whitgiftians. Through the disagreement between the two Protestant parties the force of the government's attack was lost.

Neale traces the fortunes of the bill from its second reading on February 28th 1593 to its disappearance on March 17th. During the debate on the second reading on February 28th the Recorder of Stafford, Francis Craddock, led the attempt to scale down the penalties against the catholics. The Puritans, such as Henry Finch and Nathaniel Bacon, objected to the scope it gave the bishops against sectaries.(1) The outcome was that the bill was committed, much altered in committee and received bak in the Commons on March 12th almost as a new bill.(2) Of this revised

(1) J.E. Neale, op.cit. ii. 282-283.
(2) B.M. Cotton MS. Titus. F.11.26,b. "This bill upon a committee receaved all these alterations followinge where uppon it came in againe as a new bill after the committinge."

bill Neale writes:

> Those who thought the measure too harsh scored notably. For example, the provision about forfeiting all goods and chattels was - in the words of our diarist - 'altogether omitted, being too hard.' Elsewhere there waw a scaling down of penalties; and, as Mr. Wroth wished, men were not to be fined for housing their recusant wives, while other modifications of this clause added further wafeguards. Also, children were to be taken from their parents at eight instead of seven years of age. All these changes indicate the new spirit in the House of Commons, rendering it more tolerant towards Catholics than the government wanted to be. (1)

Moreover the bill was restricted to Popish recusants and this change led to the attack from the Whitgiftians who wanted the bill as much against protestant recusants as catholic ones. The outcome was another committee stage which only increased the opposition between puritans and Whitgiftians. Finally the whole House on March 15th decided to restrict the bill to popish recusants. "And then the bill stuck. It was allowed to sleep. An anti Catholic bill abandoned!"(2)

It was indeed a strange situation, for even with the modification of penalties which the bill had undergone it was still a useful weapon for the government against the catholic recusants. At least it would have strengthened the penal code against them and allowed the local commissioners appointed in 1591 to harry the recusant families more effectively. Neale declines to invoke the interference of Elizabeth herself at this stage to explain the fate of the bill but he states Whitgift was dominating crown policy in this matter, to the extent, that no bill was preferred to a bill solely against catholics.(3)

---

(1) J.E. Neale, op.cit. ii. 284.
(2) J.E. Neale, op.cit., ii, 285.
(3) J.E. Neale, op.cit. ii. 286.

So much was this the case, that the government had decided on evasive tactics and a measure had been introduced into the House of Lords three days before Burghley mentioned this step to representatives of the Commons.

> In other words, having failed to persuade the Commons to couple Protestant sectaries with Catholics in the derelict measure, authority proposed to secure this object by a Lords' bill. (1)

The government had started this substitute measure in the House of Lords on March 27th, it was more an anti sectaries bill than an anti Catholic one.(2) It was described by a contemporary in this way,

> A bill was preferred against the Barrowists and Brownists, making it felony to maintain opinions against the Ecclesiastical Government, which, by means of the bishops, passed the Upper House, (3)

The Commons were dealing with this Bill by March 31st and once again the battle raged in defence of the protestant sectaries and puritans.(4) The question of the catholic recusant was lost in the general discussion on the position of the protestant non-conformists. And when the long weary debates were over the crown had gained a law which scarcely touched the catholic recusant problem.

It was entitled, "An acte to retayne the Queen's subjects in Obedyence." In all its ten clauses it mentioned catholics but three times. Only one significant change with regard to catholic recusants was introduced.

---

(1) J.E. Neale, op.cit. ii. 286.
(2) J.E. Neale, op.cit. ii. 287. Unfortunately the text of this bill has not survived.
(3) Cal. S.P.D. 244/124 Thos Phelippes to Wm. Sterrell.
(4) J.E. Neale, op.cit. ii. 287-292.

This was a new offence and penalty contained in a clause which stated, that if any householder kept any recusant in his house he was to "forfeyte to the Queene's majestie for everie person so relieved ... tenne poundes for everie monethe that he or they shall so relieve ... such person soe offending."(1) This penalty was not to apply to a recusant's wife, father, mother, child of children, ward, brother, sister; nor to the father or mother of the recusant's wife if they lived in that household. As it stood it applied to servants and long staying guests.(2) The whole act was to operate only until the end of the next session of Parliament.

It was a meagre achievement when compared with the government's first bill with its fifteen draconian clauses all aimed at the catholics.

The government had, however, introduced another bill in the Lords on February 24th, which was complementary to the original measure abandoned in the Commons. While the first Commons bill had aimed at the destruction of recusant households, this bill in the Lords sought to isolate and immobilise whatever members of such a household were still left in their homes. This bill had a fair measure of success though it did suffer some changes in its course through the Upper House. It was entitled "An acte for restreinyng and punishing vagrant and seditious personnes whoe under fayned pretence of conscience and religion corrupt and seduce the Queene's subjectes."(3) And in order to achieve that end it restricted the movements of all recusants.

---

(1) 35 Elizabeth. I. c.5.
(2) Even after parliament there was doubt how to interpret these clauses. cf. J.E. Neale, op.cit. ii. 293-294.
(3) From a transcript of House of Lords paper (supplementary) 1576-93. ff.119-128, which was kindly loaned to me by Sir J. Neale.

Every recusant above 16 years, who was not in prison, or in custody, or sick, had to go to his native village and not move beyond it more than five miles. The penalty for those not observing this law was forfeiture of all goods and chattels and of all lands and tenements "as well coppiehoulde and customaries as freehold," and of all rents and annuities. Those to whom such forfeiture could not apply, because of their poverty, were to suffer the penalty for felony - death.

All recusants of whatever rank were to come within this law. Peers were to be tried by their peers. And only one chance of open submission in a parish church was held out to wavering recusants. Any return to recusancy after such submission was to be visited with the full penalties of this act.

Against persons who were caught and charged with being priests, this bill laid down that on their refusing to admit their identity and declare by whom and where they had been sheltered, they were to be held guilty of felony.

Another draft of this bill, endorsed by Burghley, "the second bill against recusantes,"(1) contained a further penal clause against recusants. On examination by a bishop or an assize judge, recusants were to be bound to declare where they had been married and where their children had been baptised. Refusal to answer was to carry the pains of praemunire - confiscation of property and imprisonment at the queen's pleasure.

This version was perhaps a preliminary draft of the bill introduced

---

(1) P.R.O. S.P.12/244/108.

in the Upper House on February 24th, for it contained some differences in penalties from the latter. Loss of goods and chattels was omitted from the penalty for breaking the five mile limit, and for the very poor recusants who committed the same offence service in the galleys or banishment was to be their punishment, not the death penalty.

Despite these minor differences in the drafts of the bill, the government's intention was clearly revealed. Could it have secured the passage of this bill, unaltered, and that of its companion in the Commons, a most drastic penal code would have harried the recusants at every point. This Lord's bill marked the determination of the Privy Council to make the wealthier recusant a social pariah and to transport or hang the poorer sort. Whatever class a recusant belonged to, he was to have no shadow of a part in the life of his country. It was the end of the road on which the first signpost had been the 12d fine in 1559.

So much is clear, but once again the frustration of the Council's intentions and the scaling down of this harsh measure during its passage in the House of Lords is obscure to the historian. The bill was committed on February 28th but of what happened then, Professor Neale exclaims, "Alas! not a word survives to tell us what happened at this, or any other domestic committee of the Lords ..."(1)

The outcome of the committee stage was a new bill which without further major alterations passed both houses and became law. The central idea of the initial bill remained, the Act was entitled, "An act to

---

(1) J.E. Neale, op.cit. ii. 295.

restrain popish recusants to some certain places of abode."[1] The limit of movement was a five mile radius, to travel beyond which a licence had to be obtained from a justice of the peace with the consent of the local bishop or lord lieutenant. Permission was to be given only for necessary business and for appearance in a law court or before the Privy Council itself.

The penalty for breaking this travel limit was total confiscation of all goods, chattels, lands and annuities for life. For the recusant whose inheritance was not worth more than 20 marks per year, or worth less than £40 in goods, the penalty was abjuration of the realm, on oath, after three months persistent refusal to conform. Any one who refused to abjure the realm, or returned after having abjured it, was to be judged a felon and hence hanged.

Anyone convicted under this act was given the choice of conforming and making a public confession of his recantation. The formula for this was provided in the wording of the statute itself, and because of its insistence not only on outward conformity but on the declaration of the culprit's conscience, it marks another facet of the government attitude that a recusant had nothing to call his own - not even his innermost convictions.

> I, A.B., do humbly confesse and acknowledge that I have grievously offended God in contemning Hir Majestie's godly and lawfull government and authoritie by absenting my self from churche and from hearing Divyne Service contrary to the godly lawes and statutes of this realme; and I am hartely sorry for the same, and do acknowledge and testyfy in my conscience that the Bishop of Rome hath not, nor ought to have,

---

(1) 35, Elizabeth. II.

> any power or authoritie over Her Majestie or within any Her Majestie's realms or dominions; and I do promesse and protest without any dissimulation or any collar, or meanes of dispenceation, that from henceforth I will from tyme to tyme obay and performe Her Majestie's lawes and statutes in repairing to churche and hearinge divine service, and do my uttermost endevour to maintaine and defend the same. (1)

This declaration, which was as far-reaching as any oath of allegiance was demanded to clear a man of recusancy though in all other respects his conduct might be above suspicion. It was not for use against harbourers of priests, or letter carriers, but against the recusant simply.

Contrary to this note of extremism in the law against the lay catholic: the penalty against priests who were captured and refused to admit their identity was reduced, in the final version, to imprisonment until they confessed; as against the penalty of death in the draft bill.

What had the government achieved in the 1593 Parliament? It had secured but one clause against recusant servants in a bill mainly concerned with protestant sectaries; and it had a new statute limiting the movement of recusants. The old statutes which imposed the 12d. fine, the £20 fine, and the confiscation of property for defaulting on the payment of fines, still remained. The government's attempt to get a single effective statute, legalizing wholesale confiscations, which would have superseded the earlier laws, had failed. Instead of a simplified efficient code against recusants, a more complicated assortment of statutes was to operate. Apart from the provision for banishment of the poorer recusant under the five mile act, the government had nothing new to say about recusants too poor to be fined and too numerous to be imprisoned.

---

(1) 35, Elizabeth. II.

The Privy Council had been aware that it was faced in 1592 with a recusant problem as threatening and widespread as it had ever been, and older and more deep-seated through the mere passage of years. The bills proposed in the 1593 Parliament had faced up to that problem, but the laws which were enacted were as confused as they were limited in scope. In June 1593 the Attorney and Solicitor General were asked by the Council to confer with the judges to clear up the doubts which prevailed about the recent laws.(1)

Petitions had been coming into the Council from many of the recusants in prison throughout the country asking for their release. They maintained that under the five mile act they ought to be allowed to return to their homes and live within the limit stipulated in that Act. This seemed to the Council very much like turning the law to the recusants' advantage but they were uncertain about the matter and presumably did not think the statute was clear. Furthermore the Council raised the question that if wives, at that time in prison for recusancy, were released according to a favourable interpretation of the above point, would their husbands become liable for the monthly fine of £20?

Thomas Egerton, Attorney General, was busy in Lancashire, conferring with the bishop of Chester about recusancy matters but he sent a reply to the Council on August 3rd, 1593.(2) He admitted frankly that the effect of the recent legislature was an increase in stubbornness and numbers among the recusants in Cheshire and Lancashire and he added, "... I fear yt is

---

(1) A.P.C. 7th June, 1593.
(2) B.M. Lansdowne MS. 74/75.

little better in other parts of the realme."[1] Without certain preliminary work he could see no good being done by the recent laws.

He proposed that the women recusants ought to be released and their husbands made responsible for paying their wives' fines. To this end he suggested that an enquiry should be made in every diocese for the names, dwelling places and status of the husbands of such women. This information should then be forwarded to the exchequer and process should begin for charging the offendors' husbands. It is interesting to see that though the act itself excluded the fine being extended to the wife, at least one chief legal adviser to the crown wanted the opposite interpretation to be acted on.

Of the release of all recusants from the prisons, Egerton did not say anything in this letter. He did advise an investigation into all those who kept recusants as servants. When it was known who they were, then masters and servants were to be warned of their defiance of the law, the servants were to be asked to go to church and upon their refusal the master was to be charged with his liability of the £10 fine.

The agents suggested by Egerton, for carrying out both the enquiries he proposed, were to be the bishops, the commissioners for recusants, and some justices of the peace. His last word was that "It were pitie lawes so well meant, should be fruitles, but ether to worke, in the delinquents, that conformitie which was expected, or that proffitt to her majestie that is due."[2]

---

(1) B.M. Lansdowne MS. 74/75. f.202r.
(2) B.M. Lansdowne MS. 74/75. f.202v.

Egerton's letter was purely advisory and is interesting more as an interpretation of the law than as a guide to what was going to be done. The uncertainty of the Council was a truer indication of things to come than Egerton's somewhat elaborate schemes. The people he proposed loading with more administrative work were already hard pressed and frequently dilatory. It was not a stroke of genius to test their cooperation by further demands on their time and loyalty. The Council had failed to steer through Parliament the bills which were really needed, and that failure was to overshadow government policy for the remainder of Elizabeth's reign.

CHAPTER 9

Stalemate 1593-1603

What steps the Privy Council took to make the new recusant laws work remain unknown, because of the gap in the Council records between 1593 and October 1595. Moreover, for the same period there is nothing in the State Papers Domestic which deals with general policy. What evidence there is concerns individual searches for priests and their trials; that activity went on undiminished in all parts of the country. In order to understand what was happening to the recusant layman we have to use the evidence of the exchequer of receipt; always an index of how successful punishment by fines was. To this can be added the evidence of ecclesiastical courts from Sussex, Yorkshire and Bristol. After 1595 the central records enable us to fill out the picture in greater detail, but for the whole period 1593-1603 there is less evidence than is satisfactory for an analysis of government policy.

The exchequer accounts in the Pells Receipt Books show what money was received in recusant fines between Easter 1593 and Michaelmas 1601.(1) Thereafter the exchequer records are imperfect to the end of the reign. The Easter 1602 account is incomplete and divided between two separate books(2) and no abbreviatio has been made, thus what was collected in fines was not assessed for that term. The Michaelmas 1602 account is complete and in perfect order,(3) but the next account, that for Easter 1603, is incomplete. The second half of the 1603 receipt book is a series of blank pages with no entries of any sort.(4) Clearly the end of Elizabeth's reign was marked by a certain slackness in the keeping of records by the Exchequer. This adds to the difficulty of calculating the government attitude to recusants in these years.

Between Easter 1593 and Michaelmas 1601, nine Exchequer terms, the clerks of receipt recorded a payment of £62,693.12.7. from recusants; a yearly average of £6,965.12.2. The payments for the Michaelmas 1602 term amounted to £4,215. 5.2½, a figure roughly the same as those for the three preceding Michaelmas terms. The following table gives the total payments term by term:

---

(1) P.R.O. E.401/1852-1869.
(2) P.R.O. E.401/1870; E.401/1872.
(3) P.R.O. E.401/1871.
(4) P.R.O. E.401/1873.

1593	Easter	£3,050. 2. 6½	
	Michaelmas	2,438.17.11.	
			£5,489. 0. 5½
1594	Easter	3,041. 2. 9.	
	Michaelmas	3,259.17.11.	
			£6,301. 0. 8.
1595	Easter	3,165.15. 7.	
	Michaelmas	2,985. 5. 2.	
			£6,151. 0. 9.
1596	Easter	3,103. 5. 6½	
	Michaelmas	3,483. 4. 9½	
			£6,586.10. 4.
1597	Easter	3,148. 8.11½	
	Michaelmas	3,133. 5. 8.	
			£6,281.14. 7½
1598	Easter	3,106.10. 8½	
	Michaelmas	3,539. 9. 9.	
			£6,646. 0. 5½
1599	Easter	3,458. 6. 4.	
	Michaelmas	4,111. 6. 8.	
			£7,569.13. 0.
1600	Easter	3,537.17. 9½	
	Michaelmas	4,575.12. 6½	
			£8,113.10. 4.
1601	Easter	5,104.10. 9½	
	Michaelmas	4,450.11. 2.	
			£9,555. 1.11½
1602	Easter	----	
	Michaelmas	4,215. 5. 2½	£4,215. 5. 2½
1603	Easter	----	
	Michaelmas	----	----
			£66,908.17. 9½

These figures record an annual increase from £5,489.0.5½ in 1593 to £9,555.1.11½ in 1601. The exchequer was collecting more money in

fines in the year 1601 than ever before. However, this must not be interpreted to mean that each year the law was more and more effectively applied. The story of the exchequer's moderate success was very uneven and irregular. The payments into the exchequer in the four years after the 1593 parliament were lower than those made in the years preceding that parliament, as the following table shows:

1588	£7,985.15.10½	
1589	8,001. 2. 4½	
1590	6,469. 9. 9½	
1591	5,734. 7. 5½	
		£28,190.15. 6.
1593	£5,489. 0. 5½	
1594	6,301. 0. 8.	
1595	6,151. 0. 9.	
1596	6,586.10. 4.	
		£24,527.12. 2½

This table shows that in the troubled years before 1593, the collection of recusancy fines dropped off and it took a longer time to recover, than it had to lose them. Thus when the yearly averages for the two periods 1587-93 and 1593-1602 are compared there is only a small increase registered in favour of the second period:

Yearly average 1587-1593 £6,699. 2. 6.

Yearly average 1593-1602 £6,965.19. 2.

In fact the exchequer was doing very little more than holding its own in the struggle to exact fines. The increase in receipts over the years indicated neither a change of government policy nor a spectacular rise in the number of convicted recusants. It was no more

than that inevitable growth which was to be expected from the application of a law over the course of years, when on the one hand the government did not slacken the laws and on the other the opposition remained unshaken. In time more people were drawn within the exchequer's grasp and its receipts grew.

This is the picture for the country at large, but if the receipts are examined on a county basis then the pattern is much more irregular. In some cases the county receipts increased, some remained static, some decreased; which makes nonsense of trying to interpret the overall increase in receipts as increased exchequer efficiency. The examples on the following page will show the variations from county to county. In assessing county totals the designation of the recusant's county as given in the Receipt Books themselves has been followed. This shows that the Stafford receipts remained more or less stable around a total of £37 per term throughout the whole of this period; Sussex receipts declined from £229.0.8. at Michaelmas 1593 to £64.9.8½ at Michaelmas 1602; while the Yorkshire receipts increased in the years 1593-97, then fell abruptly in 1598, rose again to their highest figure in 1600, and then fell away once more. Such variations from county to county are not explicable in terms of policy but merely reflect the unevenness of royal government in the shires. They are evidence of the energy of some officials and the slackness of others; the ability of some recusants to delay payment and the readiness of others to comply; no more than that.

Receipts of Fines, per term, from Easter 1593 to Michaelmas 1602

		Stafford £ s. d.	Sussex £ s. d.	Yorkshire £ s. d.
1593	Easter	36. 7. 7½	180. 4. 11.	184. 4. 8½
	Michaelmas	34. 14. 3½	229. 0. 8.	70. 3. 1
1594	Easter	37. 14. 3½	214. 15. 7.	207. 7. 0.
	Michaelmas	10. 1. 8.	190. 17. 11.	220. 11. 2½
1595	Easter	37. 13. 3½	186. 0. 10.	228. 12. 2½
	Michaelmas	44. 1. 2½	189. 3. 4.	251. 4. 0½
1596	Easter	44. 1. 2½	131. 13. 4.	233. 5. 9.
	Michaelmas	44. 1. 2½	188. 16. 8.	219. 19. 2½
1597	Easter	37. 14. 3½	173. 14. 2.	240. 2. 1½
	Michaelmas	46. 6. 3½	190. 7. 6¼	233. 7. 10.
1598	Easter	37. 14. 3½	170. 7. 6.	55. 7. 11.
	Michaelmas	37. 14. 3½	170. 7. 6.	195. 18. 5.
1599	Easter	37. 14. 3½	69. 3. 0½	261. 13. 6½
	Michaelmas	37. 14. 3½	30. 8. 10½	243. 5. 8.
1600	Easter	6. 1. 8.	109. 0. 10.	364. 7. 4½
	Michaelmas	37. 14. 3½	98. 5. 2½	197. 10. 8½
1601	Easter	37. 14. 3½	75. 12. 6.	181. 15. 11½
	Michaelmas	25. 7. 7½	64. 9. 8¾	257. 9. 8½
1602	Easter	Nil	Nil	Nil
	Michaelmas	34. 11. 0.	64. 9. 8¾	269. 3. 11½

This picture of what was happening to the recusants at the hands of the exchequer is confirmed, if the receipts for a single county are examined in greater detail. Then the mosaic of widely different payments is revealed. Recusants made payments of sums in some cases almost negligible, in others to the value of the full fine. The exchequer accepted anything at all and held onto debts indefinitely, always hopeful of payment. Sussex is the example taken and it reveals the predominance of the one recusant who paid the full fine in this county, John Gage of Firles, and the relative unimportance of those recusants whose lands had been seized and from which payments were made with varying regularity. It shows, further, that in 1600 there was a reassessment of payments from lands seized and this led to a slight increase in that section of the account. The loss, on death, of the £260 every year from John Gage was not however offset by any marked increase in the number of recusants paying smaller sums. New names did appear on the account after 1600, but they did not pay heavily, nor were their payments entered separately, evidence of their unimportance and careless clerical work.

The variations in payments, exampled in the Sussex account, can be found for all counties. Everywhere there was a similar picture of delays in payments, solitary payments and gaps in payments over several years. The pattern is always one of unevenness and illogicality.

Sussex Receipts 1593-1602

	1593 Easter £ s. d.	1593 Michaelmas £ s. d.	1594 Easter £ s. d.	1594 Michaelmas £ s. d.	1595 Easter £ s. d.	1595 Michaelmas £ s. d.	1596 Easter £ s. d.	1596 Michaelmas £ s. d.	1597 Easter £ s. d.	1597 Michaelmas £ s. d.	15 Easter £ s. d.
Edward Bannister	27. 15. 7.	39. 1.11½	27.15. 7.	27. 15. 7.	27. 15. 7.	27. 15. 7.	27. 15. 7.	27. 15. 7.	27. 15. 7.	27. 15. 7.	27. 15. 7.
Thomas Pound	37. 3. 4½	36. 18. 4.	36. 0. 0.		37. 0.10.	37. 10. 0.	-	37. 3. 4.	37. 0.10.	37½ 0. 10.	37. 0.10.
John Shelley	8. 2. 8.	-	-	5. 0. 0.	8. 2. 8.	-	-	-	-	-	-
John Ashburnham	5. 0. 0.	5. 0. 0.	-	5. 0. 0.	5. 0. 0.	5. 0. 0.	5. 0. 0.	5. 0. 0.	5. 0. 0.	5. 0. 0.	5. 0. 0.
Thomas Tyndall	1. 13. 4.	1. 13. 4.	1.13. 4.	1. 3. 4.	1. 13. 4.	-	-	-	5. 0. 0.	1. 13. 4.	1. 13. 4.
Elizabeth Gage	37. 13. 4.	37. 13. 4.	37.13. 4.	-	½	-	-	-	-	-	-
Nicholas Wolfe	7. 15. 7.	7. 15. 8.	7.15. 7.	7. 15. 8.	7. 15. 8.	-	-	-	-	-	-
John Gage	120. 0. 0.	140. 0. 0.	120. 0. 0.	140. 0. 0.	120. 0. 0.	140. 0. 0.	120. 0. 0.	140. 0. 0.	120. 0. 0.	140. 0. 0.	120. 0. 0.
Mary Scott	-	-	6.13. 4.	6. 13. 4.	6. 8. 4.	6.13. 4.	6. 13. 4.	6. 13. 4.	6. 13. 4.	6. 13. 4.	6. 13. 4.
William Ashburnham	-	-	5. 0. 0.	-	-	-	-	-	-	-	-
Alice Gildridge	-	-	-	-	-	-	-	-	-	-	-
Agnes Pilcher	-	-	-	-	-	-	-	-	-	-	-
Thos. Gage	-	-	-	-	-	-	-	-	-	-	-

98 Michaelmas £ s. d.	1599 Easter £ s. d.	1599 Michaelmas £ s. d.	1^00 Easter £ s. d.	1^00 Michaelmas £ s. d.	1601 Easter £ s. d.	1601 Michaelmas £ s. d.	1602 Easter £ s. d.	1602 Michaelmas £ s. d.
27. 15. 7.	36. 0. 0.	36. 0. 0.	41. 0. 0.	41. 0. 0.	41. 0. 0.	41. 0. 0.	-	41. 0. 0.
37. 0.10.	37. 0.10.	-	37. 0.10.	37. 0. 10.	37. 0.10.	37. 0.10.	-	37. 0. 0.
-	-	-	-	-	-	-	-	-
5. 0. 0.	5. 0. 0.	5. 0. 0.	5. 0. 0.	5. 0. 0.	-	-		-
1. 13. 4.	1. 13. 4.	-	2. 0. 0.	2. 0. 0.	2. 0. 0.	2. 0. 0.	-	18. 15. 6½
-	18.15. 6½	-	-	-	-	-	-	-
-	-	18. 15. 6½	18. 15. 6½	18. 15. 6½	18. 15. 6½	18. 15. 6½.	-	-
120. 0. 0.	-	-	-	-	-	-	-	-
6. 13. 4.	6. 13. 4.	6. 13. 4.	6. 13. 4.	6. 13. 4.	6. 13. 4.	6. 13. 4.	6. 13. 4.	6. 13. 4.
-	-	-)					-	-
-	-	-)					-	-
-	-	-)	39. 11. 1½.	28.15. 6.	11. 2. 9½.	-	-	-
-	-	-)					-	-
-	-	-)					-	-

If the numbers of recusants in a county paying fines each term are examined the same picture of unevenness and change is revealed. The numbers fluctuated from term to term. Five counties have been selected for comparison, Sussex, Staffordshire, Yorkshire, Lancashire and Norfolk. The figures given for each county represent the number of recusants named in the Receipt Book account term by term. The habit of the exchequer clerks of making an indefinite entry, by merely giving a single name followed by the words "et aliis" makes these totals only approximations.(1) However this type of indefinite entry was not frequent enough to raise a major difficulty.

The first impression the tables gives is one of lack of any pattern at all. Figures range up and down in some counties while in others they remain roughly stable. Sussex and Staffordshire show least fluctuation while Yorkshire and Lancashire show most. The Norfolk figures lie between these extremes. In other words these widely separated counties exemplify perfectly the inadequacies and vagaries of Elizabethan government. There are no depths of policy hidden behind these variations in the numbers paying, but merely the ramshackle machinery for collecting money due. The variations in numbers do not even coincide with the fluctuations in the amounts paid. For example, from Yorkshire the 10 recusants who had payments made on their behalf at Easter 1593, totalled £184.4.8½, whereas 9 at Easter 1595 paid £228.12.2½. Or again, 19 paid £251.4.0½ at Michaelmas 1595, while 14 paid £261.13.6½ at Easter 1599, and 27 paid

---

(1) E.g. P.R.O. E.401/1864. Easter 1599. E precio bonorum diversorum recusantium - £22.4.4.
E.401/1851. Easter 1592. E redditu ... terrarum Michaeli Cotton et aliorium £4.6.0.

£269.3.11½ at Michaelmas 1602. An increase in names and entries in the Receipt Books did not necessarily mean a proportionate increase in recusant revenue for the exchequer.

That revenue, drawn as it was from hundreds of scattered estates in the hands of many different tenants, based on leases which changed hands, subject to the efficiency of each sheriff for its final collection, inevitably betrayed the uncertainty of its origins, term by term. What is remarkable over a period of ten years is that these accounts did not show more violent oscillations in the yearly totals than they did.

Numbers of Recusants Paying Fines in Selected Counties:

		Sussex	Staffs	Yorks	Lancs	Norfolk	Totals
1592	E	4	3	5	8	7	27
	M	-	-	-	-	-	
1593	E	8	2	10	8	10	38
	M	7	4	11	13	10	45
1594	E	8	4	16	13	8	49
	M	7	3	15	15	13	53
1595	E	8	4	9	12	12	45
	M	5	6	19	14	12	56
1596	E	4	5	20	13	8	50
	M	5	5	16	13	13	52
1597	E	6	4	16	16	12	54
	M	6	5	16	16	11	54
1598	E	6	4	16	15	9	50
	M	6	4	17	14	11	52
1599	E	6	4	14	12	9	45
	M	4	4	14	28	7	57
1600	E	7	3	23	12	5	50
	M	10	4	24	11	6	55
1601	E	5	4	22	15	3	49
	M	5	3	22	14	5	49
1602	E	-	-	-	-	-	
	M	5	4	27	35	3	74

These figures for four counties, besides showing the fluctuations in the number of recusants making payments, also show how few paid fines after 1593. The payers were a small fraction of the number of recusants revealed in other sources for these same areas during the same decade.

Yorkshire, for instance, in the Receipt Books between 1593 and 1603 had 53 recusants named as payers. In contrast the Recusant Roll of 1592-93 listed 812[1] as convicted and therefore owing a fine to the exchequer. An ecclesiastical visitation in 1590 listed 806 recusants,[2] and the diocesan returns of 1603 listed 720.[3] Those who paid money from their estates were a small minority of the numbers known and presented as recusants either by the civil or the ecclesiastical powers. From the West Riding Session Rolls for one session, 14th January 1598, the names of 121 recusants have been compiled all presented under the Statute of Uniformity for not attending church.[4] These presentments were made from 12 different parishes in the West Riding. For the same year, 1597, there are extant in York Minster Library the presentments of 123 recusants from 42 other parishes in the West Riding.[5] The two lists combined give a total of 244 recusants presented in 1597. This was at two Quarter Sessions in one year for one Riding. In comparison the Receipt Book total of 53 for the whole of Yorkshire for ten years is significant by its smallness.

---

(1) C.R.S. XVIII. pp.41-110.
(2) A.G.Dickens, "The Extent and Character of Recusancy in Yorkshire, 1604. Y.A.J. Vol.37. p.24-28, citing a Visitation Book 1590 in the York Diocesan Registry: 806 recusants, 302 non-communicants.
(3) A.G.Dickens, op.cit., citing B.M.Harleian MS.280, pp.157-172, Diocesan Returns; this report lacked Richmondshire but included Nottingham.
(4) West Riding Session Rolls, 1597/8-1602. ed.J.Lister. Y.A.J.Record Serie III, xxi.
(5) York Minster Library B.B.53 "1597,Presentments of Recusants at Quarter Sessions. Copy of the originals of Sir J.Dodsworth formerly at Newland Hall.

In Norfolk a diocesan visitation under bishop Redman in 1597 produced presentments of 84 recusants in the Norfolk archdeaconry and 108 in the Norwich archdeaconry.(1) Whereas in the receipt accounts between 1592 and 1602 there was a total of 16 recusants entered under the county heading for Norfolk. The whole county of Sussex gave no more than 11 names to the exchequer accounts during the same decade, yet for West Sussex, the archdeaconry of Chichester, there were 42 recusants presented in 1591 and 78 in 1600 in the local consistory court.(2)

Thus it is clear that those paying fines after 1593 were but a fraction of the number which the ecclesiastical records registered as recusants at the same time and in the same areas. This was of course true of any period of the reign and the continuation of this state of affairs to the end is in no way surprising. In any one term during the last decade, not more than 180 recusants were paying money into the exchequer. In the whole of that decade no more than 280 recusants featured in the receipt books. New names appeared, others ceased to be recorded, others appeared intermittently, but the total number was never more than a few hundred. It was an increase on the total of 167 for the period 1587-92, but it was not a startling increase, spread as it was over a period nearly twice as long.

A feature of the earlier accounts had been the predominance of a few recusants who paid their fines in full and consequently answered for

---

(1) "Diocese of Norwich. Bishop Redman's Visitation, 1597," ed. J.F. Williams. Norfolk Record Society. XVIII, 1946.
(2) W.S.R.O. E.1/17/7; E.1/17/10.

the greater part of the recusant revenue in any year. This was less true of the years after 1593 than before. There had been 16 such payers of the full fine in 1592; at Easter 1593 there were 13. The three who ceased to pay the full fine were Thomas Fitzherbert of Staffordshire, Ralph Sheldon of Worcester, and William Tirwight of Lincolnshire. The number remained at 13, from 1593 to 1599, when a new name occurred among this group, John Southcote of Essex. He made three payments in the Michaelmas term of that year, the first for £120 and two others for £20 and £80.

In 1600 a further five people paid large fines directly into the exchequer, namely Jane Shelley, Francis Parkins, Thomas Wells, William Roper and Henry James. This made a total of 16 full payers by the Michaelmas Term 1602, because two more of the original group, Ferdinand Paris and Edward Rookwood, had ceased to pay fines in 1601. Thus despite changes of persons the number paying the full fine never rose above 17 in any exchequer term. Only one of them was a woman, and her name appeared in the accounts after 1599.

An analysis of all these payments is given in the following tables, which show in detail the sums of money paid by this group. Though they paid vastly more than any comparable number of recusants, their portion of the overall recusant revenue was less than it had been in the previous decade. From 1587 to 1592 the total recusant revenue was £36,332.9.0; of that total, the 16 recusants paying the full fine had

contributed £26,689.1.8. This was more than two-thirds of the whole. Between 1593 and 1602 the total recusant revenue was £66,908.17.9½ and the group of full payers answered for £33,180. 0. 0. of this; which represented slightly less than half. Relatively the importance of the group of 16 had declined; by 1602 the Exchequer was deriving more from the rents of seized lands than from directly levied fines. This was the only major change in the accounts, the predominance of the rental entries.

It is not surprising that the process of confiscating two-thirds of recusant property, and thence drawing a rent, gathered momentum as the exchequer grew more expert in the handling of this side of recusancy business. This went hand in hand with the increased number of recusants recorded in these accounts. Nevertheless the small group of full-payers was still very important. Without their regular half yearly payments, the accounts would have been very slender. Moreover the payments of the 16 were the more profitable since they represented so little effort on the part of the Exchequer. To gather in that part of its revenue the exchequer had not gone through the slow process of search, evaluation, confiscation and leasing which attended all its other recusant receipts.

Recusants who Paid the full £20 fine

	1593		1594		1595		1596		1597		1598		1599		1600		1601		1602	
	E.	M.	E.	M.	E.	M.	E.	M.	E.	M.	E.	M.	E.	M.	E.	M.	E.	M.	E.	M.
Michael Hare	£140	120	120	140	140	120	140	120	120	140	140	120	140	120	120	140	140	120	-	120
John Townley	140	120	120	140	140	120	120	140	120	140	140	120	140	140	-	140	120	140	-	120
John Gage	120	140	120	140	120	140	120	140	120	140	120	120	-	-	-	-	-	-	-	-
Ferdinand Paris	120	-	120	120	140	120	140	120	140	120	140	20	120	140	120	140	60	-	-	-
Thos. Tresham	120	140	120	140	120	140	120	140	120	140	120	140	120	140	120	140	120	140	-	140
Edward Rookwood	120	-	120	120	140	120	140	120	140	120	140	120	140	120	120	120	-	-	-	-
George Cotton	120	140	120	140	120	140	120	140	120	140	120	140	120	140	120	140	120	140	-	140
Edward Suliarde	120	-	120	140	140	120	140	120	140	120	140	120	140	120	140	120	140	120	-	120
John Talbot	120	140	-	120	140	120	140	120	140	120	140	120	140	120	140	120	140	120	-	120
John Arrundel	120	120	140	120	140	100	140	120	140	120	140	120	140	120	140	120	140	100	-	120
Thos. Throckmorton	120	140	120	140	120	140	120	140	120	140	120	140	140	140	120	140	140	120	-	120
Sayer	140	-	140	120	140	120	140	120	140	120	140	120	140	120	140	120	140	120	-	120
Aprice	140	120	140	120	140	100	140	120	140	120	140	120	140	120	140	120	140	100	-	120
John Southcote														220	-	120	140	120	-	120
Jane Shelley															160	120	140	280	-	120
Francis Parkins																180	140	120	-	120
Thos. Wells																220	100	120	-	120
Wm. Roper																220	100	160	-	140
Jenry James																	280	-	-	140

Total Payments from the Full-Payers, 1593-1602, compared with the Term Totals from all Recusants.

1593	Easter	£1,660	£3,050. 2. 6½
	Michaelmas	1,180	2,438.17.11.
1594	Easter	1,500	3,041. 2. 9.
	Michaelmas	1,700	3,259.17.11.
1595	Easter	1,740	3,165.15. 7.
	Michaelmas	1,600	2,985. 5. 2.
1596	Easter	1,720	3,103. 5. 6½
	Michaelmas	1,660	3,483. 4. 9½
1597	Easter	1,700	3,148. 8.11½
	Michaelmas	1,680	3,133. 5. 8.
1598	Easter	1,740	3,106.10. 8½
	Michaelmas	1,480	3,539. 9. 9.
1599	Easter	1,620	3,458. 6. 4.
	Michaelmas	1,760	4,111. 6. 8.
1600	Easter	1,580	3,537.17. 9½
	Michaelmas	2,540	4,575.12. 6½
1601	Easter	2,300	5,104.10. 9½
	Michaelmas	2,020	4,450.11. 2.
1602	Easter	Missing	Missing
	Michaelmas	2,000	4,215.15. 2½
		£33,180.	£66,908.17. 9½

The 1593 legislation, weak though it had been, did provide for masters to pay a £10 monthly fine for their recusant servants. And if the judges' advice had been followed this would have applied to recusant wives also. It is significant, therefore, that the entries in the receipt accounts make no reference to either wives or servants; yet it was exchequer practice to name the offendor for whom the payment was being made, not merely the payer. The fact that no section of this account was set out under the heading of fines paid on behalf of women and servants is itself a proof that such a section never attracted exchequer notice. There was not even a noticeable increase in the number of women in these receipt accounts. There had always been a few, widows or spinsters, answerable for their own fines; their number did not suddenly double or treble in the period after 1593, despite the emphasis there had been on the importance of women recusants between 1589 and 1592.

Though the evidence is negative it seems reasonable to conclude that the 1593 attempts to extend the fine system did not work with any noticeable success.

The exchequer receipt evidence proves only that the 1581 and 1587 statutes still operated against recusants. However the question can be raised, should the exchequer have derived more revenue from this source than in fact it did? This question cannot be answered directly. There is, however, certain evidence which points at a discrepancy between what

the exchequer ought to have gained and what it did gain. This is important not only because it throws light on administrative inefficiency, which was inevitable, but because it confirms the view of this last decade already stated, namely, that though the law was still enforced there was a certain slowing down of machinery, abuses grew, and the exchequer lost money.

A letter from two barons of the exchequer to Lord Burghley in February 1595 instances the tendency to take the sharp edge off the law.(1) They reported that information had reached them from Yorkshire that land which had been confiscated to meet recusant fines had been leased out to other recusants at a very low rate, thus the Queen was getting very little where she should have been gaining much, and the recusants were benefitting by the abuse. The information came from the commissioners appointed by the exchequer to inquire into the value of recusants' lands. The commissioners instanced the land of a recusant being valued at £15 a year when in fact it was worth £300. Such fraud, while depriving the crown of its rightful revenue, gave the recusants encouragement that they could escape lightly from the law.

The barons, as they reported to Burghley, had looked closely into the matter, only to find that it was not only in the shires that there was a tendency to undervalue recusant estates, but that in the exchequer itself there was double dealing. On examination of the office from which

---

(1) B.M. Lansdowne MS. 80/48. f.126r. & v.

were issued the commissions ordering that a recusant's lands were to be valued, they found warrants

> some one or twoe from your Lordship [Burghley] and divers from Mr. Chauncellor requiringe Mr. Osborne [an exchequer official] not to make out any commission against certen particuler recusantes in the said county of York, as one Thomas Moore, Richard Fenton, Thomas Barnaby and George Anne and others, all men of greate lyvinge, and leases made thereof at a very lowe price and imployed to the benefitt of the saide recusantes. (1)

Faced with this, the exchequer barons felt that they had to withhold all further enquiries into recusants' lands until they learnt from Lord Burghley what policy was to be followed. They maintained that unless in future all recusants were to be treated alike, with a vigorous assessment of their lands and leases calculated high accordingly, the number of recusants would increase greatly and the law would be scorned. Consequently they had framed an order, for Burghley's approval, which could be sent to Yorkshire and wherever else it was needed, commanding strict dealing with all and nullifying previous low assessments. With that suggestion these two barons of the exchequer, with the approval of their colleagues, left the matter in Burghley's hands. Whether Burghley agreed to have this order transmitted to the counties is not known, but it is possible to check indirectly on its result.

In their letter to Burghley the barons of the exchequer had mentioned certain Yorkshire recusants by name as being examples of favouritism. They maintained that Thomas Moore, Richard Fenton, Thomas Barnaby and George Anne were all men of great wealth,yet they paid little to the

---

(1) B.M. Lansdowne MS. 80/48. f.126r.

exchequer from their confiscated lands. In other words, their holdings had been undervalued and leased out at a low rate. Thus the crown got very little and the real value of the estate was directed back into the recusant's own pockets. How does this statement tally with the evidence in the Receipt Books?

Of the four recusants named, two, George Anne and Richard Fenton, had entries against their names at the Easter Receipt 1592. For Anne £26.13.4. was paid and for Fenton £2.9.8.(1) This was presumably from the leases held by Anna Twiste who appears in the Recusant Roll of 1593 as holding leases of a great number of recusant estates, among which were leases for George Anne and Thomas Barnaby.(2) John Twiste held the lease of Richard Fenton's confiscated land.(3) The tenants on Thomas Moore's land at Boroughbridge were responsible for payment of his debt to the exchequer. In all four cases the entries on the Recusant Roll show that there was much chopping and changing of leases and leaseholders and consequently a variety of people who were answerable to the exchequer on behalf of the recusants. The outcome was that the exchequer received very little. The following table shows what payments were actually made.

---

(1) P.R.O. E.401/1851.
(2) C.R.S. XVIII, 54-56.
(3) C.R.S. XVIII, 51.

George Anne

Easter 1592	£26.13. 4.
Easter 1594	6.13. 4.
Easter 1596	6.13. 4.
Michaelmas 1597	(6.13. 4. (13. 6. 8.
Easter 1598	1. 0. 0.
Michaelmas 1598	41. 1. 1. (20. 0. 0.
Easter 1599	(26.13. 4. (40. 1. 4.
Michaelmas 1599	40. 1. 4.
Easter 1600	40.15. 0.
Michaelmas 1600	26. 0. 3.
Easter 1601	23. 5. 8.

Thomas Moore

Easter 1593	£5. 0. 2.
Easter 1594	5. 0. 2.
Michaelmas 1594	5. 0. 2.
Easter 1595	5. 0. 2.
Easter 1596	5. 0. 2.
Michaelmas 1596	5. 0. 2.
Easter 1597	5. 0. 2.
Michaelmas 1597	5. 0. 2.
Easter 1598	5. 0. 2.
Michaelmas 1598	27. 6. 8.
Easter 1599	22. 6. 8.
Easter 1600	22. 4. 8.
Michaelmas 1600	38. 6. 8.
Easter 1601	39. 8.11.
Michaelmas 1601	33.17. 9.
Michaelmas 1602	33.17.10.

Richard Fenton

Easter 1593	£2. 9. 3.
Michaelmas 1593	2. 9. 3.
Easter 1594	2. 9. 3.
Michaelmas 1595	2. 9. 3.
Easter 1596	2. 9. 3.
Michaelmas 1596	2. 9. 3.
Easter 1597	2. 9. 3.
Michaelmas 1597	2. 9. 3.
Easter 1598	2. 9. 3.

No further entry

Thomas Barnaby

Michaelmas 1595	£9.14. 9.
Easter 1596	9.14. 9.
Michaelmas 1596	9.14. 9.
Easter 1597	9.14. 9.
Michaelmas 1598	13. 6. 8.

No further entry

From the first of these tables it can be seen that between 1592 and 1598 the payments on Anne's behalf were small, but after 1598 they rose suddenly and remained higher until Easter 1600. Thereafter Anne's payments were entered in a joint entry with several other recusants and this makes it impossible after that date to know exactly what was being paid on George Anne's behalf. It is significant that the barons' letter to Burghley was in 1596, the rise in Anne's payments occurred in 1598. It is not impossible that slowly and deviously some action had been taken

and the confiscated lands were made to produce a higher rent for the crown. In a similar manner the payments from Thomas Moore's Yorkshire lands (his main estates were in Essex), showed a sudden rise at Michaelmas 1598. On the other hand, the payments on Fenton's behalf remained unchanged. Those for Thomas Barnaby stopped in 1598, though the last payment at Easter that year was higher than the previous one. Such evidence is scarcely sufficient to prove that action was taken by the exchequer to increase the rents.

Examination of the rest of the Yorkshire account reveals no further evidence of a sudden increase in payments in or around 1598. Thus it would seem that there had been no general attempt to reassess the value of confiscated estates. The barons of the exchequer had pointed to an abuse in the system but the Receipt Books do not offer any substantial proof that it was remedied. This is true of the accounts for the whole country, not merely the section concerned with Yorkshire.

Evidence from another quarter confirms the suspicion that there was corruption and fraud connected with this side of recusancy revenue. Thomas Felton, who had been the crown lessee for several recusant estates in Suffolk in 1593,(1) had risen by 1597, with the help of Sir John Stanhope,(2) to the position of controller of the enquiries into recusant lands throughout the country. At least this is the implication of a report on his activities at the exchequer drawn up some time in 1603.(3)

---

(1) C.R.S. XVIII, 321-322. Recusant Roll.
(2) Cal.S.P.D.271/108. News Letter Francis Cordale to Marco Tusinga at Venice, 1599.
(3) P.R.O. S.P.12/286/56. "A report of Felton's cearriage in the service touching recusants." Also B.M. Lansdown MS. 153/36.

The reported stated that Felton had had five years of uninterrupted control over the valuing and leasing of recusant property. According to the author of this report, Mr. Skinner, a teller at the exchequer, Felton's career had been detrimental to the exchequer. Instead of reaping benefit from his unified control, the exchequer had suffered losses, while Felton had lined his own pockets.

The accusations against Felton were quite specific. The revenue had not increased as much as Felton had promised it would.

> For in the old Lord Treasuror's tyme was aunswered in one yeare aboute " £8,000 ... And this last yeare [1602] wherein ffelton hath had full scope of his five yeare's service, was onely aunswered " but £9,000. (1)

Skinner maintained that of the £1,000 increase in revenue, two-thirds was due to other men's efforts, not Felton's. Moreover, Felton had reaped a harvest of £2,700 from land transactions and a further £700 from the Privy Purse, as a reward for his services.

This was the least of Felton's frauds. He had had commissions of inquiry into recusants' lands for thirteen counties made out in his name in 1601 and, at the time of the report, still left them unexecuted; this was no more than his usual practice in order to make everything centre on himself and make people buy his favour. In order to make money for himself and his friends he had at first valued certain recusant property too high so that no one would take leases on it. Then he had lowered the valuation and let his friends take the leases, and for this consideration he was

---

(1) P.R.O. S.P.12/286/56.

rewarded by his friends. It was alleged that he had reported to the Lord Treasurer, Buckhurst, that he had done service worth £900 per annum to the exchequer, when in fact the lands in question, which were to produce that sum, were neither valued nor leased; nevertheless Felton had been rewarded for his non-existent efforts.

This lengthy indictment of Felton's behaviour could read as nothing more than the envy of one royal servant for another, sharpened by a desire to supplant the holder of so lucrative an office. However, an exchange of letters in 1602 between Lord Buckhurst, the Lord Treasurer, and Sir John Stanhope, Treasurer of Chamber, proves that there was some substance in Skinner's attack. The letters are not explicit in their accusations of Felton's malpractices but they more than hint that some scandal was about to be revealed.

On March 31 1602 Buckhurst wrote to Stanhope,

> I know not what course to take for upholdinge this busines against the papistes, for Mr. Felton not haveing meanes to maineteyne the charges neither able nor willing to proceed further and I protest before god if he once gives it over * it gets bruited abroad, all that service will fall to the ground, and it will be impossible to recover it. (1)

From this it would appear that Felton had run into trouble either from owing more money to the exchequer than he could readily produce or from the mounting expense of carrying out the search for recusant lands. Whatever the cause of his difficulties he was clearly pressing Buckhurst for money as the next letter from the Lord Treasurer to Stanhope revealed.

In this letter of April 25th 1602, Buckhurst urged Stanhope to try

---

* After the word "over" it is not an exact transcript.
(1) P.R.O. S.P.12/285A/69.

to get the Queen to grant Felton more money for his services. Buckhurst lamented:

> I finde her Majestie unwilling to passe by privie Seale her Warrante for the giveing of that reward unto him, which both in res ecte of his travell and charges, he shall well deserve, and all soe her Majesties selfe in respecte of the matter is willinge to bestowe upon him, I desier therefoe absolutlie to knowe her Majestie finall resolution and pleasure, soe as I maie in some sorte settle the course of her Majesties busines touching theise recusantes landes and if her Majestie will not have this waie by privie Seale, for spetiall payment to be made unto him of a sixte parte to be expressed in the said privie Seale, then I praie you to knowe her Majesties pleasure, what other waie her Highnes is pleased that [you] shall take for his reliefe, for either presently he is to be supported for his service, or else it must fall to the ground, of which I praie you forget not, that in discharge of my duety, I doe forewarne you and soe I wish you your Hartes desier. (1)

Buckhurst was clearly worried about the matter and in his earlier letter had protested his innocence in Felton's affairs, itself a suspicious remark coupled as it had been with an emphatic denial that he could or would ever think of paying out the Queen's money without warrant of the Privy Seal.(2) Stanhope was reputed to have a share in Felton's gains.(3)

The reply from Stanhope on 7th May 1602 was not very comforting.(4) The Queen would not grant the warrant for Felton to be paid a sixth of all he had earned for the Crown by his service in discovering the lands and goods of recusants. Instead Buckhurst was told to devise some other way by which Felton could be rewarded for all that he had done since 24th August 1597, when his service began. This reward for his efforts was not to exceed what the grant of the sixth would have brought him and from it was to be deducted all that he had received by way of gift or reward in those years and his annuity of £200. With that recommendation

(1) P.R.O. S.P.12/283A/87.
(2) Cal.S.P.D. 285/69.
(3) Cal.S.P.D. 271/108. News letter Francis Cordale to Marco Tusinga, Venice, July 22nd, 1599.
(4) Cal.S.P.D. 284/May 7th, not numbered in the Calendar.

the incident was closed. To what extent Felton was guilty of fraudulent conversion on a grand scale remains unknown, as does the extent of Buckhurst's and Stanhope's connivance at it. What is clearly revealed by all this were the difficulties under which the Exchequer operated when so many avenues lay open down which recusant forfeitures could flow. Compared with the hazards of getting money from confiscated estates, the ease with which the exchequer drew £20 per month from the 16 full-payers enhanced the importance of that section of the yearly account. Money from the leases of confiscated lands, accounted for more than half the total recusant revenue in the decade 1593-1603, but it required a disproportionate amount of time and energy and expense to collect.

When need arose to demand more money from the recusants, in time of crisis, the old methods of an ad hoc levy were resorted to. The war in Ireland produced such a crisis, and the Council called on the recusants to help to supply money to cover the cost of light horse troops. Letters were sent out on July 16th 1598, requesting certain recusants to pay £30, the cost of providing one serviceable horse.(1) Twenty-six recusants were named and the messengers were appointed to carry the order to them.

The recusants concerned were all well known to the Council and the exchequer, and inevitably included such people as Sir Thomas Tresham, Robert Aprice, George Cotton, Michael Hare, John Talbot, Thomas Throckmorton, John Arundell and John Gage, all payers of the £20 fine in full. The Council had selected recusants of known wealth, hoping that

---

(1) A.P.C. July 16th, 1598.

the demand would be met without demur and within the ten days specified. The money was to be sent to Sir John Stanhope, Treasurer of her Majesty's Chamber.

The archbishop of York received instructions at the beginning of September 1598 that he was to charge the wealthier recusants £30 and the less wealthy £15.(1) How he was to make the division was left to his own judgement, as the Council held that he knew more about the recusants of Yorkshire, Cumberland, Northumberland and Lancashire than they did. Anyone refusing, was to be put under bonds to appear before the Privy Council for their contempt.

Refusals were soon being encountered. In those cases where the recusant was unable to meet the charge he was excused; for example, Humfrey Bedingfield and George Willoughby, both of Norfolk,(2) and Henry Hinchley of Suffolk were excused by the Council.(3)

Throughout the remainder of 1598 the Privy Council busied itself with the collection of this money. Letters were sent reiterating the first request, threats were made, and local authorities were urged to act. The business dragged on into the early part of 1599. In all, the Council had dealings with at least 125 recusants who were expected to be able to pay something.(4) By February 1599 there were payments made from some recusants in the North of England,(5) but not all were so swift. As late as May 1600

(1) A.P.C. 30th August 1598.
(2) A.P.C. 2nd August 1598, 16th August 1598, but entered on 17th.
(3) A.P.C. 23rd October 1598.
(4) A.P.C. 16th July 1598; 21st, 23rd, 31st August 1598; 3rd September 1598 6th October 1598.
(5) P.R.O. S.P.12/270/36.

the Privy Council were still trying to force contributions from 43 recusants who had refused to comply.(1)

The payments from the North, mentioned above, are the only indications of how successful this levy was. What was paid in from the rest of the country remains unknown. On this occasion if Sir John Stanhope did draw up an account of all the money received, as was done for the light horse levy in 1586,(2) it has not been preserved. From Yorkshire, Durham, Westmoreland and Cumberland he received £434. by February 8th 1599, and a further £164.6.8. was in the hands of Mr. Scudamore who had been collecting the money in those counties. The total amount, £598.6.8., was the contribution of 26 recusants. From Lancashire £60. was paid by 6 people. The recusants who were called on to make these payments were well known to the Privy Council and the exchequer. For example, 11 out of the 26 who contributed the £598.6.8. were on the Yorkshire receipt account in 1600, while 5 out of the 6 who paid £60. were on the Lancashire account for the same year. By far the greatest part of the 125 whom the Privy Council are known to have dealt with, were recusants of long standing, having featured in the Receipt Books and on episcopal lists in the past. It was in no sense an attempt to spread the net for recusants who had not been fined previously. It was merely a routine demand made on the known recusant body in the country.

Unlike the levy of 1586 it led to no congratulations from the Council

---

(1) A.P.C. 4th February 1600 - 11th May 1600.
(2) P.R.O. S.P.12/200/61.

on the generosity shown by the recusants. In 1586 the response had been such that it induced the government to introduce the abortive composition scheme. The days for such attitudes on the part of the recusants and government alike had passed. In 1598 it was just another burden which the recusants had to bear. The government needed the money and was determined that the recusants should play their part. The recusants felt that they were already paying heavily and resented this added demand.

On February 4th 1600 the Privy Council ordered the Lord Chief Justice, Popham, to investigate the case of those recusants who protested that their estates could stand no further exactions.(1) Popham was to call before him the recusants who complained and, with the help of Felton who knew most about the value of recusant estates, he was to judge whether the demand for the light horse levy was too high. At his discretion the levy on individuals was to be decreased, or maintained at £30., or completely nullified. The outcome of this was not recorded by the Privy Council, but its intention was clear: none should escape who could pay something, however small.

In Lancashire, if nowhere else, the levy had led to open defiance. The bishop of Chester had told the Council with what contempt the demand had been met, and the Council in reply told the bishop that prison was the remedy for that sort of behaviour.(2) The bishop followed the advice of the Council only to find that his pursuivant was set on and attacked by the recusants who were to be imprisoned.(3) The affair was an

---

(1) A.P.C. 4th February 1600. Council to L.C.J. Popham.
(2) A.P.C. 22nd November 1598. Council to Bishop of Chester.
(3) Cal.S.P.D. 274/25. 31st January 1600. Bishop of Chester to Cecil.

encouragement to recusant defiance and the bishop feared that it betokened general ill will.

Sir Richard Molyneux, a Lancashire justice of the Peace, was ordered by the Council to take the matter up, and he was able to report that he had dealt with the culprits even before the Council's order arrived.(1) At a Privy session of the peace, 14 people had been indicted of riot and battery, and presumably received punishment. Molyneux assured the Council that he continued to search for any others who had had part in the affair.

In September 1600 enquiries were still being held on this matter, and witnesses then deposed that they had seen 20 armed men involved in the attack.(2) The Council pursued its usual policy of urging the sheriff and the bishop to punish the majority locally and to send one or two ringleaders to London to be dealt with by the Council itself. The fate of the various recusants accused we do not know, but a pertinent comment on the policy which provoked the incident can be found amond the declaration of receipts and accounts for the Treasury of the Chamber in 1598. Sir John Stanhope, treasurer of the Chamber, had been the officer to whom the light horse levy was to be paid. Payments out of the Treasury of the Chamber from Michaelmas 1597 to Michaelmas 1598 had been £13,080.3.9; its receipts had been £12,500, the deficit of £580.3.9. was reported as having been spent chiefly on messengers sent to the clergy and the recusants about payments for providing light horse for Ireland. This was in October 1598. What was the expense by October 1600 when the

---

(1) P.R.O. S.P.15/270/60.
(2) Cal S.P.D.275/64.

messengers were still coming and going,[1] and the levy still incomplete?

If this government levy for light horse in 1598 and the exchequer accounts for the period 1593-1602 are a fair indication of the fiscal side of recusancy in Elizabeth's last years, then that part of the picture was but a stale repetition of the '80's. The same policies and the same machine for carrying them out, that was the situation. There was not a hint of administrative reform or inventiveness. What Burghley and Walsingham had considered adequate a decade before was still the reply of the Council in the late '90's.

* * * * * *

What was true of the attitude of the Privy Council was also true of the bishops and the Ecclesiastical Commissioners. They had their courts and their penalties as they had in 1570 and 1580, and with the same slow pace they moved on to deal with the recusants of 1595 and 1600 as if the problem were new each year and its correction had never been attempted before.

First the evidence from Yorkshire provides some measuring rod for the activity of the High Commission. It has been seen how far that body dominated anti-recusant activity in Yorkshire from 1579 to 1592. The Earl of Huntingdon was its leading spirit and continued as a member of it until his death if 1595. His attack on recusant wives, 1592-93, has already been noticed, and with it the search for priests. This side of his

---

(1) Cal S.P.D. 282/74. 1601. A report on 17 recusants at Crosby, Pulton and Preston in Lancashire who still have not paid the levy.

campaign seems to have filled the last years of his life. He was more concerned with the hunting down of the priests and their helpers than with the routine prosecution of recusants; that seems to have fallen into second place, 1594 was taken up with Huntingdon's activities as a member of the assize bench, not as a High Commissioner.

On 31st January 1594 Huntingdon was at a gaol delivery sessions at Durham. The main trial connected with religion was that of Lady Margaret Neville who had harboured the seminary priest John Boast. With her at this sessions, Grace Clapton of Waterhouse was tried for hearing Mass; John Spede was tried for conveying a priest from place to place; Thomas Trollope was tried for the same offence. Only Spede was executed along with the felons convicted of other crimes at the same session.(1)

In July 1594 Huntingdon was at the assizes in Durham at which John Boast and John Ingram, priests, were condemned to death, and with them George Swallowell who had uttered words on religion tending to treason.(2)

At the gaol delivery sessions held in January 1594, after the felonies had been disposed of, the trial of 80 recusants followed. This meant that they were called by name, proclaimed recusants, and warned to appear at the next assizes for trial, or suffer loss of lands and goods.(3) This is the only reference to recusancy in these sessions; though fleeting and incomplete it shows that Huntingdon had not entirely devoted his energies to the priests and their harbourers.

---

(1) J. Morris. The Troubles of Our Catholic Forefathers. Third Series. 1877, pp.183-192, citing Father Richard Holthy on Persecution in the North. Stonyhurst MS. Anglia.A.vol.ii.n.12.
(2) J. Morris, op.cit., pp.193-213.
(3) J. Morris, op.cit., p.190.

Likewise the High Commission courts still dealt with recusants, as before, but Huntingdon's over-riding concern for the discovering of priests left him less and less time to sit personally as a member of that court. Dr. Cross considers this was due to the fact that by this time the Commission's work was so clearly established that it could operate under its own momentum without an influential Lord President in constant attendance.(1) The absence of the archbishop of York from the Commission court is taken by Dr. Cross as confirmation of the fact that the lesser officials were left in charge. Huntingdon's death, 1595, only confirmed what more and more had become a custom.

What was the condition of Yorkshire after so many years of Huntingdon's efforts? A list of recusants drawn up at the order of the Privy Council towards the end of 1595 and the beginning of 1596 gives us an incomplete but illuminating answer to that question.(2) The archbishop had been ordered to draw up as full a list as possible of recusants in the several dioceses of the province of York covering 75 parishes, of which 11 were in York city. The total returned was 191, but it is significant not because of the numbers but because of the people named in it.

Second in this list was Christopher Monkton, who was living with a Robert Sharp in Bolton, Yorkshire; he had been before the High Commissioners in the 1570's, and here in 1595 he was still listed as

---

(1) M.C. Cross. "The Career of Henry Hastings Third Earl of Huntingdon 1536-1595." (University of Cambridge Ph.D. Thesis), p.146.
(2) Hatfield MS. Cecil Papers. 238/1.

obstinate and refusing conference. Mary Thwaites of Marston, Thomas Leeds of Kirkeby, Francis Jackson of Armfield, Thomas Golstrop of Kirknyoverblowes, John Wright of All Hallows parish in York, William Plowman of the same parish, Elizabeth Oldcorne of St. Saviours, Mistress Elizabeth Whalley, alias Lady Dineley of Bishop-hill parish and many others were recusants who had for years been appearing before the High Commission in York or before the city council on charges of recusancy. The list drawn up by the archbishop included them all as avowed recusants. For parts of Yorkshire he gave a picture of recusancy as deep-rooted and tenacious. It must have told the government little that was not known already. The exchequer already knew John Sayer of York as a steady payer of the £20., this episcopal list merely added the information that he was a prisoner in the house of Alderman Richardson in York.

The great majority of the 191 named in this list were recorded as being of little wealth. The Ripon recusants, 47 altogether, were described variously as being of mean ability but very obstinate, and of mean calling but very wilful recusants and of mean wealth but very obstinate. Ripon had been one of the places at which special sessions of the High Commission had been held in 1580 and thereafter its recusants appeared before that court, yet in 1595 the situation would seem to have altered little. Huntingdon had striven with all his strength to change these people but he was dead and they still persisted in their old ways. The archbishop of York, in commenting on this list, in a letter to Robert Cecil, said

that he thought that the recusants were so numerous because neither the 12d fine nor the £20 fine was levied and consequently there was nothing to make them go to church.(1)

This lugubrious judgement is confirmed by an examination of the High Commission Act books for this period. A sample of the work records in those books illustrates what was being done to combat recusancy. The Hilary Term for the Commission Court began on 15th January 1596, and ran until the end of that month.(2) In that time the court dealt with the following recusancy cases:

1 man certified attendance at church and reception of communion after being in prison for recusancy	f.254r.
2 men and 1 woman certified to the same effect	f.255v.
31 people presented for recusancy - 1 committed to prison - the rest to appear again and certify their conformity - all these were from Ripon	f.259r.
3 people entered into bonds to certify conformity by Easter	f.260v.
2 people committed to prison - later released on bonds with conditions of hearing a preacher every fortnight	f.261v.265r
2 people under bonds to hear a preacher every fortnight	f.265v.
3 people to certify attendance at church and reception of communion	f.265v.
44 Total	

In 1599 the Trinity Term began on 5th June and sittings of the Commission court went on throughout that month into July.(3) During that

---

(1) Hatfield MS. Cecil Paper. 238/1.
(2) Y.H.C. R.VII.A.13. ff.254r.-265v.

period the following recusancy matters were handled:

A	man and wife summoned to appear on the charge of harbouring vagrant recusants.	f.298v.
1	man to certify reception of communion - did not appear.	
4	men were to have certified reception of communion in October last, they failed to do so, they were ordered to certify in the coming October	f.300r.
1	man failed to certify attendance at church, his bond was forfeited	f.300r.
11	men ordered to appear on recusancy charge - an attachment order sent out for them	f.300v.
7	an attachment order against them to make them appear in court	f.301v.
17	people - an attachment order against them to appear	f.301v.
30	people - an attachment order against them to appear	f.302r.
1	wife committed to the Kidcote for obstinacy in her refusal to come to church	f.302r.
7	people an attachment order to make them appear	f.303r.
13	people under bond to appear at a future date	f.304v.
92	Total	

These samples of the Commission at work in the 1590's confirm Dr. Cross's theory that with or without a Huntingdon the machinery of persecution ground on. Though there was nothing comparable to the great circuit of 1580 in these later years yet the level of activity was high. In the Hilary Term 1590 before Huntingdon had begun his campaign against

recusant wives, there had been no more than 24 recusancy cases recorded in the Act Book.(1) Both the Hilary Term 1596 and the Trinity Term 1599 show a marked increase on that figure - so much is clear. What was being achieved by this constant examining and coercing of recusants is not as clear.

The vast majority of the cases in the 1599 Trinity Term were unsuccessful attempts to get people to appear in court; the largest group in the 1596 Hilary Term, namely the 31 Ripon recusants, was dealt with in the time-honoured manner of release of bond for a short period, then re-examination. This method had its victories, witness the record of one man certifying his conformity in that Term, but they were scarcely numerically spectacular.

Even at the height of Huntingdon's work in 1593, there was a very penetrating comment on the situation in Durham and Yorkshire by Sir John Forster, one of the commissioners for recusants, in a letter to Lord Burghley.(2) He wrote,

> True it is, for all my Lord Bishop's(3) care and diligence, - which is much more than some would have it seem; - for all my Lord President's travail and charge which is great and continual - for all the direction and command of law, which is as much as wisdom and policy can devise; - for all the exhortations and executions thereof from you and the Council, which are as effectual and precise as authority in yourselves and sovereignty from Her Highness may prescribe - yet in these remote comers [corners] it will be hard to reduce to an equal conformity with other counties and dioceses nearer about the Court and in the heart of the realm. (4)

---

(1) Y.H.C. R.VII. A.7.
(2) Cal. S.P.D. Addenda. XXXII/89.
(3) Bishop of Durham.
(4) Cal. S.P.D. Addenda. XXXII/89.

Many others with equal knowledge of the North endorsed this judgement in their own way. Dr. Williams, Dean of Durham, wrote to Robert Cecil, 16th January 1597,(1) that Durham county was extremely backward in religion; at the time of writing he estimated that there were 200 recusants, esquires and gentlemen and the meaner sort, who stood indicted, while many more could not be found either to be proceeded against in the civil courts or by the High Commission. John Jackson, preacher at Melsonby Church near Richmond lamented to Waad, clerk of the Privy Council,(2) that since the Earl of Huntingdon had died, the letter was written in May, 1597, the papists had increased in numbers and malice. Then with more rhetoric than judgement he said that there were more than 20,000 recusants in the archdeaconry of Richmond alone, awaiting, with cursed Esau, their desired day - presumably deliverance from their persecutors.

Lord North gave a more sober account of the state of Yorkshire in 1597 to Lord Burghley(3) but the drift of his remarks was the same as Jackson's. North said that the archbishop of York was remiss in his duties for many were presented as recusants but few were punished; this gave encouragement to the recusants who consequently had the effrontery to call their Protestant accusers heretics to their faces; there was still the problem of recusant wives untouched, and lastly in a sermon preached before the Archbishop and others at the opening of a gaol delivery

(1) Cal. S.P.D. 262/11
(2) Cal. S.P.D. 263/52.
(3) B.M. Lansdown MS. 84/104.

session it had been publicly stated that the papists were on the increase and their judges had grown key cold in their duties - all this to no effect. North concluded, as the preacher from Richmond had - Yorkshire needed another energetic and zealous Lord President. Already Huntingdon's reign had a golden haze around it.

Confirmation of all this came on the appointment of Thomas Cecil, Lord Burghley, as Lord President of the North in August 1599. Instructions were sent to him from the Queen how he should carry out the duties of his new office.(1) He was told he had been chosen because there was need of someone resolute to put a stop to the notorious defection from religion in the North! Previous rules and advice had not been adequate, consequently these additional orders were issued to him.

He was to ensure the military strength of the musters and to see that they were not in the control of people who might be easily bribed by catholics or who were themselves catholics. He was told,

> You must reform and correct that abundant falling away from religion, and stir up the Ecclesiastical Commissioners, who dispense with faults, as though the laws were instituted not for punishment, but to enrich them. (2)

This suggests bribery and corruption among the Commissioners themselves.

> We cannot give particular directions for what we have sent hitherto has been written in water. One great abuse is that bonds daily taken are disposed of to private persons, and of so many taken during many years, scace any have been accounted for. (3)

---

(1) Cal. S.P.D. 272/7.
(2) Cal. S.P.D. 272/7.
(3) Cal. S.P.D. 272/7.

This reveals what lay behind the endless taking of bonds which was so marked a feature of the Commission's work. People of no wealth, Burghley was warned, were called by the hundreds before the Commissioners, but the richer and more influential either were not summoned to appear or compounded privately with a few Commissioners, and no one could check on what had happened. A minority of the Commissioners released recusants without any formal consent of the rest. In consequence of this, whole parishes had grown recusant within the last five or six years, 1593-99; Richmond was a glaring example.(1)

The instructions proffered the inevitable remedies, more accurate presentments to be made by the bishops, justices of assizes to use these lists of presentments in their courts, every six months a certificate to be sent to the Lord President of forfeited bonds and fines. These might have been as new to Lord Burghley as he was to his task in the North, but they were really as old as the recusant problem. Once again the Privy Council, in the Queen's name, must have known it was writing in water.

The effect of Lord Burghley's tenure of the Lord Presidency is shown most clearly in the various orders recorded as his in the City House Books of York. Before he had taken up his office there had been a list drawn up of recusants and noncommunicants in the city of York. This was entered in the records in January 1599.(2) It had been drawn up by parishes, 15 within the city and 2 in the Ainsty. Altogether 34 people were listed

(1) Cal. S.P.D. 272/7.
(2) Y.C.R. Class B.31. f.400r-400v.

for the city parishes and 9 from the Ainsty parishes. Of these 34 people, 11 were entered as non-communicants, but the remainder were full recusants, many of them were recusants of long standing. Names such as Elizabeth Oldcorne, Lucy Plowman, Margaret Criplinge, had been on the City Commission lists as far back as 1580. The same was true of the list of recusant prisoners in the Kidcote which followed lists from the Ainsty. There were 25 of these, but no mention is made of how long they had been in prison.

In 1599 there was the significant but ambiguous entry of 23 names of recusants under the heading "Convicted recusants to be abjured in Comitatu Civitatis Eboracii."(1) Whether this was in fact done and the recusants sent into exile we do not know. However, it does look like the attempt of the new Lord President to sweep his house clean. Of these 23 recusants who had to swear to leave the realm, 12 of them had been among the prisoners listed as in the Kidcote in January 1599. A further 2 had been among those listed as recusants in the parishes of the city at that time, and 2 more were men whose names occurred in the 1596 Hilary term record of the High Commission. In fact they were described generally as people who had a long time been recusants, some since 1581 and many times convicted. A separate list of 13 women was also drawn up as having previous convictions in 1587 and 1592 as well as in 1579 - they too were to abjure the realm. Precisely what statute the Lord President was invoking is not clear. The 1593 Statute against the sectaries specifically

---

(1) Y.C.R. Class B.32. f.52r & v.

excluded popish recusants from those who could be made to abjure the realm.(1) The five mile statute of 1593 provided for abjuration of the realm but only for recusants of little wealth who did not go to their place of birth and remain there.(2) It is difficult to see that the last condition applied to the York recusants. Perhaps Lord Burghley was trying to wrench the statute to his own purpose and remove once for all these recusants whom no amount of threats and actual experience of prison could change.

On 3rd November 1599 the city council called all the ministers, curates and churchwardens of the city and the Ainsty to a meeting at which they were ordered to warn those who had recusant servants or lodgers to put them out of their houses by the 26th of the month. The parish officials thus warned were to certify what they had done by the end of the month.(3) The city council threatened that the £10 would be imposed on anyone still keeping a recusant servant or lodger after the warning had been given.

Before Burghley had been appointed Lord President there had been a check on the citizens of York who had sons overseas being educated in the catholic religion. Two gentlemen were listed as offendors in this respect and with them six poorer men, for example drapers and apothecaries. This information was for Privy Council use to assess how serious the problem was. Burghley, when he arrived, turned his attention to the

---

(1) 35 Elizabeth I. c.9.
(2) 35 Elizabeth II. c.5.
(3) Y.C.R. Class B.32.f.55r.

education of the sons and daughters of recusants in York itself. As Lord President he ordered the city authorities to produce certain recusants for examination to see if they would undertake to educate their children in the established religion and not under popish schoolmasters.(1) A dozen people were involved and five agreed to the conditions set down in a recognizance which they bound themselves to.(2) The justices of the peace were still enquiring into the observance of these agreements in December 1602.

Such is the evidence of Lord Burghley's efforts against recusancy at the end of the reign. It is not conclusive in showing him as dealing either more or less effectively with the problem than Huntingdon had done. He was using the same system as Huntingdon had; constant letters to the city council backed with the royal authority, frequent attempts to check what had been done, in fact an endless struggle to keep the city fathers up to the mark. The various small lists of people dealt with from time to time do not help to form an estimate of the numerical strength of the recusants in York, but indirectly all the evidence points to the problem as being as troublesome at the close of Elizabeth's reign as at any time since 1570.

The volume of recusancy cases before the High Commission was much as it had ever been earlier in the reign. The diocesan returns for 1603

---

(1) Y.C.R. Class B.32. f.80r.
(2) Y.C.R. Class B.32. f.138r & v.

indicate that the clergy saw the recusants as numerous as they had reported them in 1590. The exchequer receipt accounts showed increase in numbers and in amounts paid throughout the 1590's. Taken together this evidence, though imperfect in its various parts, does give a picture of recusancy in York city and shire as alarming to the Lord President and to the Privy Council as it had ever been. Whichever part of the picture is examined there is no sign of general relief at a problem which at last had been dealt with and disposed of. Neither was there any dramatic upsurge of recusancy nor any panic on the part of lay or ecclesiastical authorities. In 1602 the battle for religious uniformity was still on and neither side was showing signs of weakening.

As a final comment on the Yorkshire situation, Lord Burghley's remarks in a letter to Robert Cecil may serve best, coming as they did from the crown's chief officer in the North to the Queen's chief councillor in London.

> You will hear by letters from this Council [of the North] to the Lords of the Council [Privy Council] that we are much troubled with two seminaries, one sent down on passport of the Bishop of London and Mr. Waad, Clerk of the Council, to take his liberty for six weeks; the other Trollop, an obstinate and perilous fellow, taken of late here, and ordered by the Council [Privy] to be sent up [to Yorkshire] on suggestion to the Bishop of London ... This is a great distaste to our strict government here, and makes papists think that we proceed more strictly with them than is done elsewhere. If such traitors are released to be used for the State, the governor here should know. I want private information from you, that I may satisfy some of the best sort here, who are troubled at such proceedings ... (1)

---

(1) Cal. S.P.D. 284/52. June 29th, 1602. Lord Burghley to Secretary Cecil

This letter was sent in June 1602 and illustrates perfectly the lack of coherent government policy, the fear on the part of the protestant supporters of the Council in the North that the papists were being given liberties and encouragement, the readiness of the recusants to make capital out of any mistake or weakness of those in authority, and the struggle of the Lord President to remain master on all fronts.

The records at Chichester provide evidence for an assessment of ecclesiastical action against the recusants in Sussex from 1590 to 1601. The dealings of the exchequer with the Sussex recusants who paid fines has already been discussed. What is here under analysis is the action of the local bishop against those recusants who never had their names recorded in an exchequer receipt account. What was their fate? Did they escape entirely? They could not pay £20 per month, what could they be forced to do? The answer in the previous two decades had been that they could be harried by churchwardens, examined by bishops, preached at, put in prison, made to pay the 12d. fine, constrained to take out bonds by which they promised to conform and, more frequently than any other punishment, they could be excommunicated. All these forms of coercion were in full force in 1601.

The Detection book for the Archdeaconry of Chichester[1] for the years 1589-1592 provides the first example of the series. The twelve months from 16th January 1591 to 15th January 1592 have been selected for examination. In that year 42 people were called before the consistory

---

(1) W.S.R.O. E.1/17/7. ff. 1r-253v.

court at Chichester on charges of being absent from church. Of these, 6 were excommunicated, 4 were admonished to come to church in future, ȳ paid a 12d. fine, 18 were deferred to later examination in the hope of their conforming in the interim, 3 did not appear in court, therefore a writ was sent out to bring them in, 2 cases appear to have been left without any judgement, 1 case was dismissed, the person having conformed. 1 case certified his conformity having been bound to do so previously. The comparative rarity of the imposition of the 12d fine is noticeable in these records.

Over and above these recusancy cases there were 102 cases of people not having received communion during the past year or more. These were the "church papists," or recusants at heart who would not risk open refusal to go to church. They went to service but held back from receiving communion. The vast majority of these people were given time in which to mend their ways and certify to the satisfaction of the court that they had received communion. Even for this offence some half dozen were excommunicated.

In January 1594 the bishop of Chichester was ordered by the Privy Council to draw up lists of recusants in his diocese.(1) Some of these lists are extant, among which is a list of recusant wives, servants, lodgers and householders. It covers the same area as that covered by the Detection book, namely the Archdeaconry of Chichester, though the deanery of Arundel would appear to be lacking. This list gave the following numbers:

---

(1) W.S.R.O. E.5(3)34 and E.5(3)13.

21 wives, 19 servants, 11 sojourners as guests in people's houses, 8 men householders responsible for guests or servants, and themselves recusants, a total of 59.(1) This was a restricted list without any claim to be complete, yet it produced more offenders than a whole year of juridical action in the consistory court against recusants.

The Detection Book of the Consistory Court for the period October 1600 to September 1603 provides the evidence for another twelve months sample.(2) Between October 1600 and October 1601 there were 78 recusancy cases and 92 cases of non-reception of communion. The 78 recusancy cases were dealt with in the following manner: 41 were excommunicated, 16 were given time in which to certify their conformity, these were under bond; 13 did not appear and a writ was issued to order them to appear; 8 were dismissed either on lack of any case or proof that they had already conformed. Of the 92 non-communicants, 13 were excommunicated, while the remainder were given time in which to receive communion and certify that they had done so.

The ban of excommunication was not something to be disregarded as a formality. Proof of this lies in the fact that 6 of the 13 excommunicated for not receiving communion sought absolution from the ban and promised under bonds to receive communion. It is noticeable, however, that those convicted of recusancy and excommunicated, the 41 of them, did not change their attitude so easily. Only one of them sought absolution and promised to conform. These facts confirm the idea that

---

(1) W.S.R.O. E.5(5)25.
(2) W.S.R.O. E.1/17/10.

those who refused communion but did not object to attending service were the weaker characters ready to compromise and quickly brought into line with a touch of punishment.

Not all those who were accused of absence from church in these records could be described as recusants in the sense that they resolutely and steadfastly refused to go to any service whatsoever. The indictments prove this in their wording. Among the 1590 indictments, Robert Holloway of Billinghurst was cited for going to plough on Holydays, his case was dismissed as lacking precise evidence.(1) Richard Horsam was at play on the feast of the Epiphany 1591 with Richard Allwyn - both were admonished by the court and dismissed.(2) Robert Wyman of Westdeane came seldom to his parish church because he lived a great distance from it, nevertheless the court bound him to certify a regular attendance in the future.(3) On the other hand, some culprits were accused in very definite terms of prolonged recusancy: Elizabeth Bosham, James Shelley and Mistress Freeland were presented as absent from church for a whole quarter of the year.(4) William Goldam of Midhurst came but once a quarter.(5) Mistress Shelley of Horsham was stated simply to be a recusant without further qualification.(6) The great mass of presentments, however, were not specific one way or the other, but merely used such phrases as "cometh not," "comes not," "absented herself," "cometh not to service."(7)

(1) W.S.R.O. E.1/17/7. f.182r.
(2) W.S.R.O. E.1/17/7. f.191r.
(3) W.S.R.O. E.1/17/7. f.201v.
(4) W.S.R.O. E.1/17/7. f.176r; f.231v; f.188r.
(5) W.S.R.O. E.1/17/7. f.214v.
(6) W.S.R.O. E.1/17/7. f.223r.
(7) W.S.R.O. E.1/17/7. f.223r; f.221v; f.202r; f.201r; f.188v; f.179v;f.174

At this level of jurisdiction what was being dealt with was the simple fact of someone being known to be physically absent from his parish church on certain occasions. It might cover a variety of attitudes from thorough-going detestation of the service to mere physical laziness. Yet all such absences from church were included under the general term recusancy and any statistics compiled from these records or from episcopal visitations perforce include the whole range of people who did not attend service.

With this qualification in mind, the question can be raised, do the figures for 1591 and 1600 show any marked difference from those of earlier years? The following table shows how they compare with presentation for recusancy on three earlier occasions.

1584	Presentments of recusants to the Chancellor of the Diocese of Chichester from the four deaneries Boxgrove, Midhurst, Storrington, Arrundel	29 recusants 32 noncommunicants
1586	Visitation of Chichester Diocese, presentments for the same four deaneries and the city of Chichester	103 recusants
1587-88	Cases before the Consistory Court from the four deaneries	43 recusants 28 noncommunicants
1591-92	Cases before the Consistory Court from the four deaneries	42 recusants 102 noncommunicants
1594	Bishop Bickley's returns of wives, servants, sojourners and householders - for three deaneries and Chichester city	59 recusants
1600-1601	Cases before the Consistory Court from the four deaneries and the City of Chichester	78 recusants 92 noncommunicants

These figures show a wide variation, but if the fact that certain areas are not included in some of the samples is taken into account, then the over-all picture is more or less stable with the exception of the return of 103 in 1586. This can be explained to some extent by the fact that Thomas Bickley was making his first visitation as bishop of Chichester and perhaps with the drastic effect of a new broom everyone remotely suspected of recusancy was listed for examination. Moreover the see had been vacant for three years; Richard Curteys had died in 1582, which explains the small returns for 1584, when there was no bishop. Dr. Paul has repeatedly asserted in connection with Hampshire recusancy that no bishop or a slack bishop was the deciding factor in the control of recusancy in a diocese. Bickley in Chichester seems to have reaped the neglect of the previous four years.

These considerations apart, it can be said of West Sussex as of Yorkshire that the problem had not noticeably decreased or increased in the course of Elizabeth's long reign, but rather that recusancy remained as troublesome as it had been.

This situation in which the bishops and their officers continued to enforce the statute of 1559 continuously to the end of the reign was general throughout the country. Examples of that judicial activity shown by the bishop of Chichester can be found among the court records of their fellow bishops at Bristol, Norwich, Winchester. All were concerned with a recusant population which was largely untouched by the

£20 fine or the confiscation of property, but which could not be disregarded, for fear of the example to others which complete immunity from the law would have given.

At Bristol the diocesan records enable us to see what was happening there in the years 1592-1603. There are three volumes of Consistory Court records for that period and a single volume for an earlier period 1564-69.(1) From the three volumes belonging to the 1592-1603 period the following survey of recusancy has been drawn. During the whole of the period 1593-1603 the see was vacant.

Between August 5th 1592 and November 30th 1593, which is the whole of one book,(2) there were 14 cases of absence from church and 25 cases of not receiving communion. The recusancy cases were dealt with in the following manner. Henry Tucker had been presented with the phrase "he doth not frequent his parishe churche as he ought to do ... by reason he doth some times worke abrode." When he was at home, however, he went to his parish church.(3) For this he was put under a bond to reappear in court with a certificate of attendance at church. This he did and was dismissed, having paid court fees of 2/-. At the first stage he was threatened with excommunication if he did not pay the fees.(4)

Richard Gibbons went into Bristol to church instead of to his own

---

(1) Bristol Diocesan Records, deposited with the City Archivist: Court Books Office Causes. 1564-69, Volume 5; 1592-93, Volume 8; 1597-1601, Volume 10; 1603-1606, Volume 11.
(2) B.D.R. Office Causes. Vol. 8.
(3) B.D.R. Office Causes. Vol. 8, p.13.
(4) B.D.R. Office Causes. Vol. 8, pp. 17, 34, 39.

parish church at Mangotfield. For this he was admonished to attend his own church and had to pay 2/- fees. Once again the offender on delay in paying the fee was threatened with excommunication. He paid and the case was closed.(1) This case had occurred in August and September 1592. By June 1593 Gibbon was again in court answering the charge of being frequently absent from church. He was ordered to go to church and confess his fault publicly during service time. On failure to do this he was excommunicated and stood excommunicate in November 1593 when this volume ended.(2) In fact he had gone to church with the intention of confessing his fault but had fallen into a quarrel with the minister and thus was ordered to make his public confession a second time. This he did not do.

William Wallye who was charged with similar frequent absence from church and also of adultery. He was ordered to certify his attendance at church in the future and to purge himself of the charge of adultery. In due course he produced his certificate of attendance and also five purgators from his parish who swore that he had never had carnal knowledge of the woman named Elizabeth Sheppard. He was therefore restored into good repute by the judge,(3) and dismissed without fees.

James Askew was charged with absence from church; he admitted the fault and begged to be absolved from the ban of excommunication which

---

(1) B.D.R. Office Causes. Vol.8, pp. 13, 24, 31, 42.
(2) B.D.R. Office Causes, Vol.8, pp. 243, 269, 275, 281, 288.
(3) B.D.R. Office Causes, Vol.8, pp. 13, 24, 31.

had been issued against him. He had to appear in his parish church and at the end of evening prayer before the minister, churchwardens and six honest men acknowledge his sorrow for his fault. He certified several weeks later that all this had been done and he was dismissed without mention of fees.(1)

John Merrick was convicted of recusancy, was excommunicated, begged absolution and was dismissed.(2) Likewise John Edwards and his wife were presented as recusants; they admitted the charge and eventually certified their return to conformity to the satisfaction of the court.(3) Edward Syon after a period of recusancy, conformed and was dismissed by the court. John Allyes and his wife on refusal to confess their fault publicly were excommunicated and did not seek absolution.(4) Three other cases, Robert Hoskins, Thomas Barrett and the wife of Henry Weston were still in process at the end of November 1593.(5)

These fourteen cases illustrate how much in a world of its own the ecclesiastical courts worked. There was no open reference to statute law or to fines or to the state. Each case was dealt with within the limits of ecclesiastical law and the problem of recusancy in these pages appears as a parochial religious matter without any connection with the larger problems of state and church.

Along with these 14 recusancy cases, there were 25 cases of the

---

(1) B.D.R. Office Causes, Vol. 8, pp. 19, 24.
(2) B.D.R. Office Causes, Vol. 8, pp. 97, 173.
(3) B.D.R. Office Causes, Vol. 8, pp. 145, 169, 192, 206, 217.
(4) B.D.R. Office Causes, Vol. 8, pp. 235, 278, 283.
(5) B.D.R. Office Causes, Vol. 8, pp. 153, 376, 294.

non-reception of communion in the same period of time and the ban of excommunication was used freely to make people comply with the orders of the court. In one instance a citizen of Bristol, Philip Gwyn, was called before the court because he was employing an excommunicated person. He pleaded that he did not know this fact, hence he was dismissed with costs.(1) Obviously in Bristol diocese the ban of excommunication was no light matter. It was, of course, usual in all manner of cases, not only for matters of religious duties, but for adultery, marriage without banns, neglect of the church fabric by the wardens, assaulting the minister, and lewd words. It was the bishops' most useful weapon.

The following table shows the incidence of recusancy cases as recorded in the court books of the Consistory Court at Bristol:

August 5th, 1592 - November 30th, 1593(2)	-	14 recusants 25 noncommunicants
June 4th 1597 - July 1598(3)	-	22 recusants 22 noncommunicants
July 7th 1599 - July 7th 1600(4)	-	2 recusants 42 noncommunicants
July 7th 1600 - July 4th 1601(5)	-	16 recusants 57 noncommunicants

The numbers were never very high and these recusancy matters were never the main concern of the court to the exclusion of everything else. They appeared among the day's business not more frequently than cases of

(1) B.D.R. Office Causes. Vol. 8, pp. 37 and 43.
(2) B.D.R. Office Causes. Vol. 8, pp. 1-380.
(3) B.D.R. Office Causes. Vol.10, ff.20r - 118r.
(4) B.D.R. Office Causes. Vol.10, ff. 260v - 362r.
(5) B.D.R. Office Causes. Vol.10, ff. 263r. - 503r.

adultery, or incontinence; they were part of a whole complex of disorders which had to be checked and corrected. This is what is most interesting in the episcopal records of Bristol and Sussex, that recusancy is apparently accepted as part of the life of the parish. It is an abuse that cannot be tolerated, but at the same time there is no indication that those curbing it thought that it could be stamped out. Along with negligent churchwardens, and decaying chancels, it had to be dealt with, but by 1600 one feels it had become a well recognised feature of parish life. The churchwardens, the vicars and rectors, even the bishop on visitation, saw matters rather differently from the Privy Council, or a Lord President.

If we turn to the diocese of Norwich, the evidence derived from bishop Redman's visitation in 1597 to a large extent confirms this view. The presentments for the three archdeaconries of Norwich, Norfolk and Suffolk are preserved in three separate books.(1) J.F. Williams in an introduction to these presentments writes of them thus: "In this visitation there is no indication of the bishop having presided at any of the courts."(2) Some weeks before the court was to sit, the incumbent and churchwardens of each parish were served with a citation telling them to appear at the court on a certain date. At the same time it was the duty of the apparitor of each deanery to collect the answers to the "articles" or questions which had been sent out by the bishop in accordance with Canon 119.(3) From this information the court books

(1) "Diocese of Norwich Bishop Redman's Visitation 1597," ed. J.F.Williams. Norfolk Record Society. XVIII. 1946.
(2) J.F. Williams, op.cit. Introduction p.7.
(3) J.F. Williams, op.cit. Introduction p.8.

were made up, the names of the parishes were written in large characters on the left of the page; the names of the offenders were written in latin parish by parish; and the details of the cases were in English. What actually happened at the hearing of the case was filled in very briefly by the clerk, who also noted what judgement was given.

The total number of parishes which appeared in these presentments was 806 in Norfolk and 260 in Suffolk. In 1603 there were 1215 parishes in the diocese of Norwich, thus 409 parishes were unaccounted for, in this 1597 visitation. Of these, J.F. Williams calculates that 181 were returned "omnia bene" and hence there was no court business for them, but the other 224 were reported but are now missing.

For Norfolk there were 84 recusants, and 29 non-communicants, a total of 113, cases, in 66 of which the judgement given was excommunication. Suffolk presented 94 recusants, 66 non-communicants, and excommunications numbered 42. The archdeaconry of Norwich presented 108 recusants, 22 non-communicants and a total of 42 excommunications. For the whole visitation there had been 286 recusants presented and 127 cases of non-reception of communion, and the ban of excommunication had been imposed 155 times; usually it was applied because of the non-appearance in court of the offender.

These figures, though for a greater area than those considered in Bristol and Chichester dioceses, stand as evidence to a similar scene. All types of recusants are included, the casual as well as habitual.

However, a very marked feature of these returns was the length of time specified for periods of absence from church. Inevitably, there were the indefinite presentments which stated that the offender came seldom, or infrequently, or simply did not come to church,without mentioning length of time. In other cases the time was specified, two years absence for example, or twelve months. In one instance, that of John Downes of Babringley in the Norwich archdeaconry returns, the accusation was one of twenty years absence. In all there were 9 people accused of 3 months' absence, 11 of 6 months', 22 of 12 months', 14 of 2 years', 3 of 5 years', and 5 of 5 years'. Bishop Redman was dealing with a deep-seated problem more than with the stray absentee from one Sunday's service.

In this the Norwich picture differs from that of Bristol, but the treatment is identical. There was the routine of excommunication, of taking of bonds, orders to certify at a future date, and as in any ecclesiastical court the endless delay, the postponing of cases without definite judgement one way or the other. With this went the almost total absence of levying the 12d. fine. When it was mentioned in these returns it was to record the fact that the churchwardens admitted to not collecting it. This phenomenon was as long-lived as that of recusancy itself. Excommunication was the commonest punishment.

Dr. Paul in his account of Hampshire recusancy in the last five years of the reign describes a situation in some respects the same as that of Norwich. Proceedings against recusants reached such a pitch from 1598

to 1603 that the ecclesiastical court began in 1598 to make a separate record for recusancy cases.(1) Instead of noting them along with all other office causes, they were entered in a book entitled Processus contra Recusantes 1598-1602.(2) In these five years 437 recusants were cited to appear in court and of these 327 were excommunicated on account of their refusal to attend court to be tried. The twelve penny fine was levied in some instances in this period, but Dr. Paul makes it clear that it was negligible compared with the use of excommunication. In Hampshire, as elsewhere, ecclesiastical methods were unaltered and the problem as bad, if not worse, than it had been.(3)

Thus parallel to the exchequer's efforts to deal with the wealthier recusants who were convicted under the 1581 statute was this episcopal endeavour to arrest the growth of recusancy among the humbler members of the shires. The attack on the leading recusants had not scattered the rest of the flock. The theory that severe treatment of those who were notorious recusants, harbourers of priests and general encouragers of others, would deal a death blow to the whole body of recusants, had not succeeded in practice. This was so because the severe treatment had not caught all those whom it was aimed at, and even those who had paid the huge fines had not been weakened in their resolve against going to church. Consequently the artisan, the labourer, the tradesman, the

---

(1) J.E. Paul, "The Hampshire Recusants in the Reign of Elizabeth I" (University of Southampton. Ph.D. Thesis, 1958), p.128.
(2) J.E. Paul, op.cit., p.128, n.61.
(3) In 1590, Dr. Paul estimates there had been 300 recusants at liberty, p.117.

servant, had not been frightened into a denial of their recusant position. They remained a canker in every diocese, not often subjected to the 12d. fine and wholly untouched by the £20 fine.

CHAPTER 10

The Bills of 1601

The last parliament of Elizabeth's reign was summoned to meet on 27th October, 1601. In the months before parliament met there was no attempt, by the Privy Council, to examine the recusant problem as it had developed in the past eight years. Before the parliament of 1593 there had been consultations with the judges, there had been information requested from the bishops and, finally, the government had prepared its own measures with which to legislate against the recusants. In 1601 there was nothing of this sort. No government bill directed against catholics was introduced into either the Lords or the Commons.

Action when it came, was the result of private members' efforts to arouse the Commons to a realisation that the penal code against catholics was still too weak.

A bill

> ... was brought into the House on November 13th by Sir Robert Wroth, the last of the Marian exiles there, a gentleman now sixtyone years old, who had sat in every Parliament since 1563. And its other chief supporter

> was Sir Francis Hastings, a slightly younger man, who had been taught by that famous Puritan don, Dr. Lawrence Humphrey of Magdalen College, Oxford. Hastings had missed only one Parliament since 1571, and, like Wroth, preserved the qualities of the past. (1)

The bill aimed at making the 12d. fine a real penalty by ensuring that it would be collected. It also proposed to fine the husband for his wife's recusancy. Both problems were old and grave weaknesses in the penal code against catholics, and it was surely naïve at this stage to imagine that such a bill would succeed when there was no strong government support. In fact the bill was lost after much debate and amending.(2) Sir George Moore objected that as a wife had no goods, then she could not be made to pay a fine.(3) Others feared that it was meant to impose a double penalty, one of £20 and another of 12d. for the same offence. Sir William Wray made it clear that this was not the intention of the bill, but that it was aimed specifically at the poorer recusants.(4) However the strongest doubts against the bill arose from its reliance on justices of the peace and churchwardens; petty officials unreliable from a government point of view and perhaps tyrannical towards their inferiors.(5) Details of the bill seem to have blinded the members to the importance of the problem which it tried to remedy; they rejected this attempt without proposing an alternative.

---

(1) J.E. Neale, op.cit., ii, 596.
(2) J.E. Neale, op.cit., ii, 597-599.
(3) Heywood Townshend, Historical Collections. 1680, 228.
(4) H. Townshend, op.cit. 228.
(5) H. Townshend, op.cit. 229.

However, the loss of this bill did not completely extinguish the desire to do something about fining the poorer recusant for his offence. Sir Francis Hastings introduced another bill entitled "Acte for the more diligent resorting to the church upon the Sondaies."(1) This bill confined itself to the enforcement of the old 12d. fine and left other recusant problems alone. In the preamble to this bill, it was stated that the Act of Uniformity had failed to ensure church attendance because the 12d. fine had not been levied. This had happened because of two reasons. The first was, according to this 1601 bill, because

> the saide statute enacted that noe person or persons should bee at any tyme then after impeached or otherwise molested of or for any the afore recyted offences then after to be committed or done, ... unlesse hee or they soe offending should be thereof indicted, at the next generall session to be holden before any justices of Oyer hand determiner or justice of Assize next after any offence committed ... (2)

By this provision it had meant that every single offence had to be taken before the Queen's justices on circuit within a limited time after the absence from church had been duly noted, otherwise the case against the recusant lapsed. It was too much to expect of churchwardens that they should act with such regularity and promptness.

The second reason why the Act of Uniformity had failed to get people to church was stated thus:

> the penaltie of XIId in the said statute, appointed to be forfeyted, was soe little that noe person or persons

---

(1) P.R.O. S.P.12/283/16.
(2) P.R.O. S.P.12/283/16.

> would undergoe soe chargefull and long a suite for the recoverie of soe smale a penaltie ... (1)

Not only had the Act of Uniformity erected an elaborate machinery for the enforcement of the fine, but it had done so for a fine too small to repay the trouble of prosecution.

All this was to be swept away by the bill - "soe much of the saide clause containing the means and manor of recovery of the same by waie of indictment as aforesaid be from henceforth utterlie repealed ..."(2) and it was to be replaced by what was hoped would be a simpler and quicker method of conviction before the local justices of the peace.

At any quarter sessions, or out of sessions wherever two or three justices of the peace came together, cases of recusancy were to be tried and determined. The testimony of two or more credible witnesses was to be required to secure a conviction. On their information the justices of the peace could order the churchwardens to levy the fine from the offending parties,

> by waie of distresse of their goodes and chattells ... and by the sale there of, yelding to the owners the overplus yf the offendor or offendors shall not paie the saide forfeyture within one weeke next after demaunde ... (3)

The promoters of the bill put their hope in the zeal of the justices of the peace, but this met with stiff opposition and distrust. One member, Mr. Bond, criticised the already luxuriant authority of the justices and did not wish to see it further increased.(4) Another, Mr.

---

(1) P.R.O. S.P.12/285/16.
(2) P.R.O. S.P.12/285/16.
(3) P.R.O. S.P.12/285/16.
(4) H. Heywood, op.cit., 275.

Glasock, said that to make such laws was merely to waste time.

> Our statutes penal be like the beast called - Born in in the morning, at his full growth at noon, and dead at night, so these statutes are quick in execution, like a wonder for nine days; and that's a wonder they endure so long; soon after they be at height: but by the end of a year they are carried dead in a basket to the justices' house. (1)

The debate never really dealt with the basic question how to enforce conformity. There was little or no discussion of the threat from catholic recusancy. Once again the debate turned on details of administration or on a puritan desire to sanctify the Sunday - general policy was nowhere voiced. Only Hastings, its promoter, raised the alarming question "Have we now lived forty three years under her majesty's happy and religious government, and shall we now dispute, Whether it is fit to come to the church?"(2) This was indeed a remark which pointed out that with regard to the poorer recusant the problem of 1559 was still unsolved, but the House was not roused to ponder such a deep implication in the bill.

Even an endeavour to save the bill by reducing the attendance at church to eight times in the year was rejected by the House.(3) Raleigh in the final debate attacked the reliance the bill placed on mean officials such as churchwardens. He refused to believe that it could produce anything but confusion at the quarter sessions and denounced the reduced number of attendances at church as open toleration for people to stay at home.(4)

---

(1) H. Heywood, op.cit., 276.
(2) H. Heywood, op.cit., 278.
(3) T.E. Neale, op.cit. ii. 404.
(4) H. Townshend, op.cit. 520.

The bill did not specify the way in which the favourable cooperation of the justices of the peace was to be secured. Yet that was essential to the success of the measure. There was no provision in the bill for penalising churchwardens who failed to carry out their duties of levying the 12d fine or of informing the justices of refusal to pay.

The bill stated clearly that the 12d fine was not to be levied from those people who were already subjected to the £20 fine. Further, though giving the justice of the peace new powers, it did not remove recusancy cases from the scope of the ecclesiastical courts. Under the new bill, if it had become law, the bishops could have continued to excommunicate people for not going to church. Likewise they could have continued to impose the 12d fine in their own courts if they chose to do so. The bill did nothing to increase or decrease the power of the bishops against the poorer recusant.

This bill represented an attempt to give meaning to the 12d fine as a weapon against poor recusants but it was in no way thought out in detail and seemed to have taken little notice of the difficulties which had beset earlier laws against recusants. It devised no new machinery for operating its proposals. It had no reply to the question of what was to be done if large numbers of poor recusants refused to pay their fines and resisted the seizure of their goods. Perhaps the threat of imprisonment was to be invoked, but that too had proved unmanageable in the past.

This defective bill did not succeed in passing through the Commons.

The most significant fact, for the student of the penal laws, was the absence of intervention from the crown's principal councillor, Robert Cecil. At no stage of this Parliament was there any sign that Cecil was eager to put teeth into the 12d. fine. Yet no one more than he knew the situation in the country, how the poorer recusants were in no way conformable. The ecclesiastical courts were only holding the evil at bay, not casting it out.

The previous Parliament of 1593 had seen a very real attempt on the part of the government to pass stern anti-catholic measures. They had been lost, but only after a certain amount of fight had been put up. But in 1601 there was no attempt to win the day. From the outset the government had seemed apathetic and Cecil's only comment at the loss of the final bill, was a perfunctory expression of displeasure "and though I am sorry to say it, yet I must needs confess, lost it is, and farewell to it."(1)

It was a curious remark with which to consign the problem of recusancy to the realm of unsolvable problems. After so many years of legislative and administrative effort the original 12d fine was admitted to have been a failure and the government were content to leave it so. Yet Robert Cecil knew as well as anyone that the situation in the shires did not warrant such complacency. The Lord President of the North wrote in 1599 to Robert Cecil saying, "I am now examining notorious recusants, both men

---

(1) J.E. Neale, op.cit. ii. 405.

and women, who have long been left asleep, and among them a priest, either seminary or Jesuit, who will neither confess anything nor answer by oath; he has been here 28 years, but never taken."(1) This description epitomised the recusant problem which the parliament of 1601 left unsolved. The writer, Thomas Cecil, insisted that he was dealing with recusants of long standing, men and women, that among them, hidden for many years, was the priest who had ministered to them and that both he and his flock were unshaken in their opposition to the state religion. And to handle this deep-rooted non conformity the Lord President had but the unwieldly earlier statutes, the local officers and his own ingenuity.(2)

The Lord President of the North indicated in 1601 how difficult it was to govern a part of England where recusancy was so prevalent. He had occasion to explain to Robert Cecil(3) how much wiser it would be not to press the loyal Protestant subjects in Yorkshire for their contribution to the cost of the war in Ireland. If these well disposed people were alienated from the royal government by constant demands for money, who would remain to support the law in those parts? The Catholics were already hostile from conscience' sake and Thomas Cecil was reluctant to render his protestant supporters equally discontented.

Of such problems there was no mention in the debates in the Commons,

---

(1) Cal. S.P.D. 272/112.
(2) H. Townshend, op.cit. 228. Dr. Bennet maintained during a debate on the first bill that there were 1300 recusants in Yorkshire who went unfined.
(3) Cal. S.P.D. 281/28.

neither was there any real analysis of how widespread the recusant defection was. No one seems to have looked back over the years to examine the operation of the earlier laws and to devise ways and means of remedying their defects. The House and the government were content with the dismissal of the 1559 statute as having been a failure and nothing was found to replace it. However, though Robert Cecil could say of the unsuccessful bill in the Commons ..."lost it is, and farewell to it," Thomas Cecil in the north, and others like him, could not say farewell to the recusants in the shires who persisted in their refusal to conform. They existed and still had to be dealt with and the only weapons to use were the old statutes.

The law of 1559 still operated and the cumbersome machinery, which it had employed to try to fine the recusants, still ground on slowly in the ecclesiastical courts. From the very beginning of the reign it had been considered as a law which did not work well. Nothing is more significant in the history of Elizabethan recusancy than that this despised statute should have remained unaltered despite so many reasons advanced for its alteration. Bishops had urged its weaknesses in every decade and the Privy Council had admitted its defects more than once, yet nothing had been found which could be an effective substitute. The stubborn fact remained that in 1603 as in 1559 there was no law which reached the mass of poorer recusants and made them pay fines, however small, for their recusancy.

True they could be, and were, cited before the ecclesiastical courts and suffered the penalty of excommunication; they were examined and punished by the High Commission courts; in many cases they were imprisoned for their obstinate refusal to go to church. Such punishments were not light and the life of a steadfast recusant could be one of long drawn out suffering and inconvenience even if it did not lead to death, though that was always a constant danger in the prisons of the sixteenth century.

The penal code failed to coerce the poorer recusants because it lacked a reliable body of royal officials to impliment it. There was no single official, whether ecclesiastical or lay, who could be relied on to carry out the law without favouritism and corruption. The comment of a member of the 1601 House of Commons on the 12d fine is perhaps the best summary of its whole history,

> Amongst many laws, which we have, we have none for constraint of God's service: I say none, though one were made primo reginae; because that law is no law, which takes no force; for executio legis vita legis. (1)

After so many years of work by bishops and ecclesiastical commissioners, all that they could be said to have achieved was the prevention of recusancy from spreading to the whole population. Tireless application of ecclesiastical sanctions, however weak and temporary, kept recusancy a minority problem throughout the reign. At no stage do the records either of the central government or of regional officials suggest that recusancy was completely out of control. It was a constant

---

(1)H.Townshend, op.cit. 274-275.

challenge to the Elizabethan statesman and at no time could Burghley or Walsingham, or later Robert Cecil, feel secure or afford to neglect this threat to national unity as they conceived it.

What was true of the penal code with regard to the poorer recusant was true also of his wealthier counterpart. The 1581 and 1587 statutes had been used to attack the more important recusants but never had that attack won a final victory. The end of Elizabeth's reign saw the fight still in progress and, if anything, being conducted with less than its former vigour. The exchequer receipts tell their tale of partial success, but despite the machinery devised for confiscating lands in order to extract some payment from those convicted, there was always that greater number who did not pay at all. Again the weakness was the lack of government officials who could be relied on to do their task. The Privy Council for most of the reign urged the bishops and the sheriffs to do their duty, there was no lack of will on the part of the central government to suppress recusancy, but however urgently the Council wrote to royal servants in the shires it could not supply for local indifference and open hostility. Indeed after 1593 the central government seemed content to let the exchequer operate the statutes as best it could. Thereafter no privy councillor had any new ideas on how to meet the problem. No new laws were framed and no new administrative methods were tried.

To the melancholy question of Francis Hastings, "Have we now lived

forty three years under her majesty's happy and religious government, and shall we now dispute, Whether it is fit to come to the church,"[1] the answer in 1603 was still Yes. Recusancy was a legacy that Elizabeth was to leave to her successor with no indication of how to prevent its growth.

---

(1) H. Townshend, op.cit. 278.

BIBLIOGRAPHY

BIBLIOGRAPHY

A. PRIMARY SOURCES

a) Principal Manuscript Sources, London

i. British Museum:

Cotton MSS.
Hatfield MSS., micro-film
Harleian MSS.
Lansdowne MSS.
Royal MSS.
Yelverton MSS.

ii. Public Record Office:

Records of the Exchequer:

Lord Treasurer's Remembrancer:

Exannual Rolls, E. 363
Memoranda Rolls, E. 368
Pipe Rolls, E. 372
Recusant Rolls, E. 377

Exchequer of Receipt:

Pells Receipt Books, E. 401
Receipt Rolls, E. 401

Records of the Clerks of Assize

South Eastern Circuit, Indictments. Assizes 35.

State Paper Office

State Papers Domestic Elizabeth I. S.P.12

iii. Lambeth Palace

Charters and Miscellaneous MSS.

iv. House of Lords

Statute Rolls

b. Principal Manuscript Sources, Regional

i. Borthwick Institute of Historical Research, York

Act Books of the Ecclesiastical High Commission, 1576-1603

ii. Bristol City Records

Quarter Sessions Records, 1595-1605
Diocesan Records deposited with the City Archivist, Act Books of the Consistory Court, Bristol.

iii. Leeds City Archives

Ingram MSS.
Churchwardens Presentments. 1580. 1593.

iv. Salisbury Diocesan Registry

Liber Visitationis, 1585, Presentments.
Liber Actorum 1584-86

v. West Sussex Record Office

Churchwardens Presentments, 1579
Consistory Court Book, October, 1579 - February, 15
Detection Book, March 1580 - October, 1580
Churchwardens Presentments, 1584
Detection Book 1586-87
Detection Book 1586-89
Detection Book 1589-92
Detection Book 1600-1603
Return of Non Conformists 1580, 1593.

vi. York City Archives

Corporation House Books, 1577-1605
Minutes of the Sessions of the Peace (City and Ainst
Vol. 3, 1571-83
Vol. 4, 1583-86
Vol. 5, 1586-90
Register Books

vii. York Minster Library

Copies of presentments of recusants, 1597, from the originals of Sir J. Dodsworth, formerly at Newland Hall.

c) Printed Texts and Calendars

Acts of the Privy Council (New Series)

Calendar of State Papers. Domestic. Elizabeth

Calendar of the Manuscripts of the ... Marquess of Salisbury ... preserved at Hatfield House, Hertfordshire. (Historical Manuscripts Commission Reprints, no. 9.) 18 vols. 1883-1940

Catholic Record Society. Publications

i. Miscellanea. I. 1905

I. Dr. Nicholas Sanders, report to Cardinal Moroni on the change of religion in 1558-9 [1561]. From Autograph in the Vatican Archives. ed. by the Rev. J.H.Pollen, S.J.

II. Official Lists of Prisoners for Religion from 1562-1580. From originals in the Public Record Office and British Museum. Ed. by the Rev. J.H.Pollen, S.J.

III. Conclusion of the Autobiography of Fr. William Weston, S.J., 1589-1603. From Contemporary Copy in the Archives of the Society of Jesus. Ed. by the Rev. J.H.Pollen, S.J.

IV. Letter from the Ven. Christopher Robinson to the Rev. Richard Dudley, describing the martyrdom of the Ven. John Boste, 1594. Communicated by Lord Herries from Everingham MS.

Miscellanea. II. 1907

I. The Memoirs of Father Robert Persons (Concluded) No. VI. Punti per la Missione d'Inghilterra - Stonyhurst MSS, Collectanea P. Contributed by Rev. J.H.Pollen, S.J.

II. Lord Burghley's Map of Lancashire, 1590. Annotated by Joseph Gillow.

English Martyrs 1584-1603. V. 1908

Recusant Roll, No.1. 1592-3. 1916. Contributed by M.M.C.Calthrop

Miscellanea XII, 1921

I. Diocesan Returns of Recusants for England and Wales 1577. Contributed by the Rev. Patrick Ryan, S.J.

II. Two Letters or Reports on Recusancy by Bishop Barnes, 1570 and 1585. Contributed by the Rev. J.H.Pollen, S.J.

III. Recusants and Priests, March 1588. Contributed by the Rev. J.H.Pollen, S.J.

IV. Prisoners in the Fleet, 1577-1580. Contributed by the Rev. J.H.Pollen, S.J.

Miscellanea XIII

I. Some Letters and Papers of Nicholas Sander, 1562-1580. Contributed by John B. Wainwright.

London Sessions Records, 1605-1685, 1934. Ed. by Dom Hugh Bowler.

Letters and Memorials of Father Robert Persons, S.J. 1942. Ed. by L. Hicks, S.J.

The Wisbech Stirs, 1595-1598. 1958. Ed. by P.Reynold, B.A.

The Letters and Despatches of Richard Verstegen. c.1550-1640. 1959. Ed. by Anthony G. Petti

Challoner, Richard	Memoirs of Missionary Priests as well secular as regular and of other Catholics of both sexes, that have suffered death in England on religious accounts from the year of Our Lord 1577 to 1684. A new edition revised and edited by J.H.Pollen	London, 1924
Camden Miscellany ix.	A Collection of Original Letters from the Bishops to the Privy Council 1564 edited by M. Bateson.	London, 1875
Camden Society	Narratives of the Days of the Reformation, chiefly from the manuscripts of John Foxe, the Martyrologist, edited by J.G.Nichols. Camden Society. 77.	London, 1859
	Chetham Society. Volume 77. New Series, 1917. Lancashire Quarter Sessions Records. ed. by James Tait.	Manchester 1917
	Collections for a History of Staffordshire edited by William Salt Archaeological Society	Kendal
	The Staffordshire Quarter Sessions Rolls. 1929. Volume I. 1581-1589 1930. Volume II. 1590-1595 1932. Volume III. 1594-1597 1935. Volume IV. 1598-1602	ed.S.A.H. Burne
Foley, H.	Records of the English Province of the Society of Jesus. 8 vols. in 7.	London, 1875-83
Gerard, J.	The Autobiography of an Elizabethan Translated by P. Caraman	London, 1951
Journals of the House of Commons. 1547-1648		
Hyland, St.G.K.	A Century of persecution under Tudor and Stuart Sovereigns from contemporary records (Loseley MSS.)	London, 1920
	Lincoln Record Society Vol.22. 1926 "The State of the Church in the reigns of Elizabeth and James I." edited by C.W. Forster	1926
Morris, J., S.J.	Troubles of Our Catholic Forefathers, related by themselves. 3 vols.	London 1872-77

	Norfolk Record Society. Volume XVIII, 1946 Diocese of Norwich Bishop Redman's Visitation 1597, ed. by J.F. Williams	1946
	North Riding Records Society. Yorkshire, Vol.I. Quarter Sessions Records. edited by J.C. Atkinson.	1884.
Oliver, G.	Collections illustrating the history of the catholic religion in the counties of Cornwall, Devon, Dorset, Somerset, Wilts., and Gloucester / etc./	1857
Rymer, Thomas	Foedera, Conventiones, Literae et cuiuscunque generis Acta Publica inter reges Angliae et alios quosvis imperatores reges pontifices, principes vel communitates. in 10 volumes.	The Hague, 1735-45
	and in 5 volumes.	London, 1816-30
Sandys, Edwin	The Sermons of Edwin Sandys D.D. edited by John Ayre	The Parker Society, Cambridge, 1842
	Statutes of the Realm	
Weston, W.	An Autobiography from the Jesuit underground translated from the Latin by P. Caraman.	New York, 1955
	Wiltshire Archaeological and Natural History Society. Records Branch. Volume IV. 1948. Minutes of Proceedings in Sessions 1563. 1576-1592. ed. by H.C. Johnson	Devizes, 1949
	Yorkshire Archaeological Journal, Record Series. Volume III. West Riding Sessions Rolls. 1597-1602 edited by J. Lister.	Worksop, 1888

General Reference

Baines, Edward, Esq.	The History of the County Palatine and Duchy of Lancaster, in 5 vols.	1888-1893
Burn, LL.D., Richard	Ecclesiastical Law, in 5 vols.	London, 1797
Camden, William	Annales Rerum Anglicarum et Hibernicarum regnante Elizabetha	Leyden, 1625
Denzinger, H.	Enchiridion Symbolorum Definitionum et Declarationum de rebus Fidei et Morum	Fribourg, 195?
D'Ewes, Sir Simonds	The Journals of all the Parliaments during the reign of Queen Elizabeth, both of the House of Lords and House of Commons	London, 1682

Dictionary of National Biography

Gillow, J.	A Bibliographical Dictionary of the English Catholics, in 5 vols.	London, 1885
Jacob, Giles	A New Law Dictionary containing the interpretation and definition of words and terms used in the Law ...	London, 1772
Giuseppi, M.S.	A Guide to the Manuscripts preserved in the Public Record Office. Vol. I. Vol. 2.	London, 1923 1924
Le Neve, John	Fasti ecclesiae Anglicanae, or a Calendar of the principal ecclesiastical dignitaries in England and Wales, ... compiled by John Le Neve, corrected and continued from 1715 to the present time by T. Duffus Hardy, in 3 vols.	Oxford, 1854
Phillimore, Sir Walter George Frank	The Ecclesiastical Law of the Church of England, in 2 vols.	London, 1895
Ritchie, Carson, I.A.	The Ecclesiastical Courts of York	Arbroath, 195?
Townshend, Heywood	Historical Collections or An Exact Account of the Proceedings of the Four Last Parliaments of Queen Elizabeth	London, 1680

The Victoria History of the Counties of England

A History of the County of Sussex in 9 vols.		London 1905-1957
A History of the County of York in 5 vols.		London 1907-1915
A History of the County of Stafford	Vol. 1.	London 1908
	Vol. 4.	1958
	Vol. 5.	1959

Elizabethan Recusancy

Allen William, Cardinal	An Admonition to the nobility and people of England and Ireland	Antwerp, 1588
"	A True defence of English catholiques that suffer for their faith	Ingolstadt 1584
Anstruther, O.P. Godfrey	Vaux of Harrowden	London, 1953
Arber, E.	An Introductory Sketch to the Martin Marprelate Controversy	London 1879
Bayne, C.G.	Anglo Roman Relations (Oxford Historical and Literary Studies, no. 2)	Oxford, 1913
Bindoff, S.T.	Tudor England	London, 1950
Birt, O.S.B., Norbert	The Elizabethan Religious Settlement	London, 1907
Black, J.B.	The Reign of Elizabeth	London, 1936
Bridgett (C.SS.R) T.E. and Knox, T.F.	The True Story of the Catholic Hierarchy deposed by Queen Elizabeth	London, 1889
Bradshaw, W.	Humble Motives to maintain the Religion Established	London 1601
Burghley, William Cecil, Lord	The Execution of Justice in England for maintenance of public and Christian peace against certeine Stirrers of sedition	London 1585

Chapman, J.H.	"Persecution under Elizabeth" (Transactions of the Royal Historical Society. 1st Series. IX.	London, 1881
Cheyney, Edward P.	A History of England, from the defeat of the Armada to the death of Elizabeth in 2 vols.	London 1914, 1926
Constant, Gustave	La Reforme en Angleterre in 2 vols.	Paris, 1950, 1959
Frere, W.H., and Kennedy, W.P.M.	History of the English Church under Elizabeth and James I. 1558-1625	London, 1899
	Visitation Articles and Injunctions of the Period of the Reformation, Vol. III. 1558-1575	Alcuin Club Publications, 1910
Creighton, Mandell	Queen Elizabeth	London, 1896
Davies, E.T.	Episcopacy and the Royal Supremacy in the Church of England in the XVI Century	London, 1950
Dixon, A.G.	The Marian Reaction in the Diocese of York. Part I, The Clergy (St. Anthony's Hall Publications. No.11)	London and York, 1957
Dixon, R.W.	History of the Church of England Vol. V. 1558-1563 Vol. VI. 1564-1570	 Oxford, 1902 Oxford, 1902
Finch, M.E.	"The Wealth of Five Northamptonshire Recusants. (The Publications of the Northamptonshire Record Society. Vol.XIX)	Oxford 1956
Fishwick, H.	"Lancashire in the time of Elizabeth" (Transactions of the Royal Historical Society. 1st Series, VI.)	London 1877
Gibson, T.E.	"A Century of Recusancy" (Historic Society of Lancashire and Cheshire, Transactions. 3rd Series, VII)	1879.
Grindal, Edmund	The Remains of Edmund Grindal, Archbishop of Canterbury	The Parker Society, Cambridge, 1845.

Halley, R.	Lancashire its Puritanism and non comformity, in 2 vols.	Manchester, 1869
Hooker,	The Works of Richard Hooker, 5 vols. edited by R.W.Church and F.Paget	Oxford 1888
Hastings, Sir Francis	A watch word to all religious Englishmen	London, 1598
Hughes, Philip	Rome and the Counter Reformation in England	London, 1942
	The Reformation in England. Vol. I Vol. II Vol. III	1950 London 1953 1954
Imbart de La Tour, Pierre	Les Origines de la Reforme. Vol. IV: Calvin et l'Institution Chretienne	Paris, 1935
Janelle, Pierre	The Catholic Reformation	Milwaukee, 1949
Jewel	The Works of Bishop Jewel, 4 vols.	The Parker Socy. Cambridge, 1844-1845
Kennedy, W.P.M.	Elizabethan Episcopal Administration in 3 vols.	London, 1924
	The "Interpretations" of the Bishops and their influence on Elizabethan Episcopal Policy (Alcuin Club Tracts, VIII)	London 1908
	Parish Life in the Reign of Queen Elizabeth =	London, 1914
Jessopp, Augustus	One Generation of a Norfolk House, A Contribution to Elizabethan History	London, 1879
Law, T.G.	A Historical Sketch of the Conflicts between Jesuits and Seculars in the reign of Queen Elizabeth	London, 1889
Leatherbarrow, J.H.	The Lancashire Elizabethan Recusants (Chetham Society, New Series, vol. 110.)	Manchester, 1947
Magee, Brian	The English Recusants	London, 1938

Meyer, A.O.	England and the Catholic Church under Queen Elizabeth, translated by J.R. McKie, 1915.	1911 Rome
Neale, J.E.	Queen Elizabeth	London, 1953
"	The Elizabethan House of Commons	London, 1949
"	Elizabeth I and her Parliaments in 2 vols. Vol. I. Vol. 2.	London, 1953 1957
"	Essays in Elizabethan History	
Parker, Matthew	Correspondence of Matthew Parker, 1535-1575 (The Parker Society)	Cambridge, 1853
Parsons, Robert	A brief discours contayning certayn reasons why Catholiques refuse to goe to church [Anon.]	Doway, 1580
"	An epistle of the persecution of catholiques in England	Douay, 1582
Pearson, A.F. Scott,	Thomas Cartwright and Elizabethan Puritanism, 1535-1605	London, 1925
Phillips, George E.	The Extinction of the Ancient Hierarchy ...	London, 1905
Pollard, A.F.	The History of England from the Accession of Edward VI to the Death of Elizabeth 1541-1603 (Vol. VI. The Political History of England, ed. W. Hunt and R. Lane Poole)	London, 1910
Purvis, J.S. The Revd.	The Archives of York Diocesan Registry, Their Provenance and History (St. Anthony's Hall Publications)	London, 1952
Sander, Nicholas	Rise and Growth of the Anglican Schism translated by David Lewis	London, 1877
Read, Conyers	Mr. Secretary Walsingham and the Policy of Queen Elizabeth. 3 vols.	Oxford, 1925
	Mr.Secretary Cecil and Queen Elizabeth	1955, London

Read, Conyers	Lord Burghley and Queen Elizabeth	London, 1960
Strype, John	Annals of the Reformation ... during Queen Elizabeth's happy reign 4 vols. in 7 parts.	Oxford, 1824
"	Life of Grindal	1821 Oxford
"	Life of Parker, 3 vols.	Oxford, 1821
"	Life of Whitgift, 3 vols.	Oxford, 1822
Simpson, R.	Edmund Campion, a Biography	London, 1896
Southern, A.C.	Elizabethan Recusant Prose, 1559-1582	London, 1950
Usher, R.G.	The Reconstruction of the English Church in 2 vols.	New York, 1910
"	The Rise and Fall of the High Commission	1913 Oxford
Vaux, Laurence	Catechism, edited by T.G. Law Chetham Society, New Series, 4.	1885
Willes-Bung, J.W.	Select Cases from the State Trials	1879 London

Articles

Biographical Studies

Aveling, Hugh, O.S.B.	The Catholic Recusancy of the Yorkshire Fairfaxes. Part I. Vol. 3. No. 2. Part II. Vol. 4. No. 2.	Bognor Regis 1955 1958
Bowler, Hugh, O.S.B.	Some Notes on the Recusant Rolls of the Exchequer. Vol. 4. No. 5.	1958
Exchequer Dossiers I.	The Recusancy of Venerable John Talbot, Gentleman. Vol.2. No.1.	1955
Exchequer Dossiers II.	The Recusancy of Ven John Bretton and of Frances his wife. Vol.2. No.2.	1955
Hicks, L. S.J.	Father Robert Persons, S.J., and The Book of the Succession. Vol.4. No. 2.	1958

Southern, A.C. Recusancy in the North Riding of Yorkshire, c.1590. (The text of a document in Marsh's Library, Dublin, with annotations) Vol. 2. No. 2. 1955

The Month: London

Harting, E.M. The Diary of a Recusant, 1584 (1911, July, p.49)

Pollen, S.J. John Hungerford Politics of English Catholics during the Reign of Queen Elizabeth. (1901, August, p.113)

" Religious Persecution under Queen Elizabeth (1904, November, p.501)

" Religious Terrorism under Queen Elizabeth (1905, January, p.11)

" An Error in Simpson's "Campion" (1905, March, p.271)

Elizabethan Catholic History (1911. January, p.11 February, p.136)

The Stirs at Wisbeach (1911. June, p.561)

Yorkshire Archaeological Journal: Wakefield

Dickens, A.G. The Extent and Character of Recusancy in Yorkshire, 1604 Volume 37. 1948-51.

Dickens, A.G. and Newton, J. Further Light on the Scope of Yorkshire Recusancy in 160 Volume 38. 1952-55.

Theses (typescript)

Cross, M.C. The Career of Henry Hastings, Third Earl of Huntingdon, 1536-1595. (Ph.D. Cambridge. 1958)

Fuidge, M.M. The Personnel of the House of Commons 1563-7. (M.A. London. 1950)

Gabriel, R.C. Members of the House of Commons, 1586-'7. (M.A. London. 1954)

Matthews, H. Personnel of the Parliament of 1584-5. (M.A. London. 1948)

Mort, M.K. The Personnel of the House of Commons, 1601. (M.A. London. 1952)

Mouseley, J.E. Sussex county gentry in the reign of Elizabeth (Ph.D. London. 1956)

Paul, J.E. Hampshire recusants in the reign of Elizabeth I. (Ph.D. Southampton. 1958)

Trafford, The Personnel of the Parliament of 1593 (M.A. London. 1948)

APPENDIX

APPENDIX

The Official analysis of the 1586 Light Horse Levy for the Netherlands Campaign

---

The Light Horse Scheme[1]

County	No. of Recusants Listed	No. of Recusants Paying	Total Expected	Total Paid	Excuses	
Lancs.	21	11	£550	£550	(Disability	£25
					(Death	£25
					(Non Inventi	£25
					(No Recusant	£125
Hampshire	7	2	£175	£50	(Dead	£25
					(Unable	£25
					(Not resident	£25
					(Paid in Surrey	£25
Sussex	15	4	£350	£140	(Dead	£50
					(Unable	£60
					(Not Resident	£75
Surrey	10	5	£400	£225	(Not Resident	£125
					(No recusant	£25
					(Non inventi	£25
Staffs	10	5	£250	£125	(Disability	£25
					(Dead	£25
					(Non-resident	£75
Northants	5	1	£125	£25	(Non Inventi	£50
					(No recusant	£25
					(Not resident	£25
Northants	5	1	£125	£25	(Non Ingenti	£50
					(No recusant	£25
					(Not resident	£25
Suffolk	16	9	£600	£275	(Refused	£50
					(Discharged	£25
					(Not Resident	£75
					(No recusant	£25
					(Inability	£25
					(Dead	-

(1) P.R.O. S.P.12/200/61.f.133-138

Appendix (contd.)

County	No. of Recusants Listed	No. of Recusants Paying	Total Expected	Total Paid	Excuses	
Hereford	5	1	£125	£5	(Disability	£75
					(Non inventi	£25
Bucks	9	4	£550	£150	(Not resident	£50
					(Non inventi	£50
					(Disability	£25
					(No recusant	£25
Dorset	1	0	£25	0	(Not resident and disable	£25
Chester	3	2	£100	£75	Dead	£25
Worcester	6	2	£150	£50	(Paid in another shire	£75
					(Non inventi	£50
					(Not resident	£25
					(Disable	£25
London Middlesex	32	17	£975	£675	(Paid in Berkshire	£150
					(Discharged	£25
					(Death	£75
					(No recusant	£50
					(Not resident	£25
Gloucester	3	1	£100	£50	(Non inventus	£25
					(Not resident	£25
Warwick	3	2	£75	£27.10.0.	(Not resident	£25
					(Disability	£22.10.
Huntingdon	2	1	£75	£50	Not resident	£50
Norfolk	15	1	£200	£25	(Dead	£75
					(Inability	£25
					(Not recusant	£25
Oxon.	19	8	£597.10.	£125.15.6.	(Disability	£157
					(Not resident	£80
Yorkshire	10	3	£250	£50	(Fugit.	£50
					(Refused	£25

Appendix (contd.)

County	No. of Recusants Listed	No. of Recusants Paying	Total Expected	Total Paid	Excuses	
Leicester	2	1	£75	£75		
Kent	7	4	£250	£175	(Not resident (Disability	£50 £25
Lincoln	2	1	£75	£75		
Wilts	4	1	£100	£25	(Disability (Non inventus	£50 £25
Devon	2	0	£75	-	(Not resident (Discharged	£25 £50
Berks.	5	2	£150	£50	(Non inventus (No recusant (Disability	£25 £50 £25
Derby	3	1	£100	£25	(At London (No recusant	£50 £25
Hertford	1	0	£50	-	No recusant	£50

Contemporary Totals:

Sum Charged (i.e. Expected) £6,822.10. 0. Sum Paid £3,519.5.6.
Sum Excused. Total £2,117. 0. 0.

Death	£275. 0. 0.	Refusal	£125. 0. 0.
Disability	£729.10. 0.	Discharge	£ 50. 0. 0.
Non inventi	£425. 0. 0.	No recusants	£514

Result of the Scheme

Totals: 216 recusants listed
87 recusants pay

Total Money expected	£6,147.10. 0.	
Money paid (i.e. money received by Freake)	£2,908. 5. 6.	
Money excused	2,869.10. 0.	
		£5,777.15. 6.
Deficit not accounted for:		£569.16. 6.